

# **BAKER COUNTY ZONING ORDINANCE**



**ADOPTED BY ORDINANCE NO. 2014-01 EFFECTIVE JULY 8<sup>TH</sup>, 2014  
AMENDED BY ORDINANCE NO. 2021-01 EFFECTIVE AUGUST 3<sup>RD</sup>, 2021**

**BAKER COUNTY ZONING ORDINANCE  
TABLE OF CONTENTS**

**KEY TO ACRONYMS AND ABBREVIATIONS**

**ARTICLE 1 ADMINISTRATIVE PROVISIONS**

Chapter 110	Introductory Provisions
Chapter 115	Decision-Making Procedures
Chapter 120	General Administrative Provisions
Chapter 125	Planning Director's Interpretation
Chapter 130	Zoning Administration
Chapter 140	Enforcement
Chapter 150	Definitions

**ARTICLE 2 LAND USE DECISIONS**

Chapter 210	Conditional Uses
Chapter 220	Permit Expiration Dates and Extensions
Chapter 225	Home Occupations
Chapter 230	Planned Unit Developments
Chapter 235	Special Event Permits
Chapter 240	Variances
Chapter 245	Modifications
Chapter 250	Temporary Permits
Chapter 260	Map, Text and Plan Amendments
Chapter 270	Property Line Adjustments
Chapter 280	Partitions
Chapter 290	Subdivisions

**ARTICLE 3 DEVELOPMENT STANDARDS**

Chapter 310	Site Design Review
Chapter 320	Transportation Standards
Chapter 330	Off-Street Parking and Loading
Chapter 340	Development Standards (Setback Requirements) for All Zones

**ARTICLE 4 RESOURCE DISTRICTS**

Chapter 410	Exclusive Farm Use Zone (EFU)
Chapter 420	Timber Grazing Zone (TG)
Chapter 430	Primary Forest Zone (PF)
Chapter 440	Mineral Extraction Zone (ME)
Chapter 450	Surface Mining Zone (SM)

**ARTICLE 5 NON-RESOURCE DISTRICTS**

Chapter 510	Residential Zones
Chapter 520	Commercial Zones
Chapter 530	Industrial Zones
Chapter 540	Special Districts:
	Airport Development (AD)
	Sumpter Valley Management Area (SVMA)
	Sumpter Valley Management Area Buffer Zone (Buffer Zone)
	Motor Sports Limited Use Combining Zone (MSLUC)

Chapter 550      Old Mill Limited Use Combining Zone (OMLUC)  
                    Zones for Unincorporated Communities

**ARTICLE 6 OVERLAY ZONING DISTRICTS**

Chapter 610      Airport Overlay Zone (AOZ)  
Chapter 620      Big Game Habitat Overlay Zone (BGHO)  
Chapter 630      Floodplain Overlay Zone (FOZ)  
Chapter 640      Sensitive Bird Habitat Consultation Overlay Zone (SBHCOZ)  
Chapter 650      National Historic Oregon Trail Interpretive Center Overlay Zone (NHOTICOZ)  
Chapter 660      Wetlands Overlay Zone (WOZ)  
Chapter 670      Limited Use Overlay Zone (LUOZ)  
Chapter 680      Interchange Overlay Zone  
Chapter 685      Mining Activity Buffer Overlay Zone (MABOZ)  
Chapter 690      Mining Impact Mitigation Overlay Zone (MIMOZ)  
Chapter 695      Tourist Commercial Limited Use Overlay Zone (TCLUOZ)

**ARTICLE 7 SUPPLEMENTAL DEVELOPMENT STANDARDS**

Chapter 710      Historic, Cultural and Natural Resources Protection  
Chapter 720      Non-Conforming Uses  
Chapter 730      Signs  
Chapter 740      Wireless Communication Facilities  
Chapter 750      Wind Power Generation Facilities  
Chapter 760      Solar Power Generation Facilities  
Chapter 770      Dismantling and Financial Assurance Standards

## KEY TO ACRONYMS AND ABBREVIATIONS

AD	Airport Development Zone
ADT	Average Daily Traffic
ALUCC	Aviation Airport Land Use Compatibility Guide
AMPs	Access Management Plans
AOZ	Airport Overlay Zone
ASCS	Agricultural Stabilization & Conservation Service
BCD	State Building Codes Division
BCMAMP	Baker City Municipal Airport Master Plan
BCZO	Baker County Zoning Ordinance
BFE	Base Flood Elevation
BGHO	Big Game Habitat Overlay Zone
BLM	Bureau of Land Management
CI	Commercial Industrial Zone
CD	Certificate of Deposit
CLOMA	Conditional Letter of Map Amendment
CLOMR	Conditional Letter of Map Revision
CUP	Conditional Use Permit
DEQ	Department of Environmental Quality
DSL	Oregon Department of State Lands
DLCD	Department of Land Conservation & Development
DOGAMI	Department of Geology & Minerals Industry
EA	Environmental Assessment
EFSC	Oregon Energy Facility Siting Council
EFU	Exclusive Farm Use zone
EIS	Environmental Impact Statement

ELD	Expedited Land Division
FAA	Federal Aviation Administration
FDP	Flood Damage Prevention
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FOZ	Floodplain Overlay Zone
GC	General Commercial Zone
HAG	Highest Adjacent Grade
HRLUC	Homestead Recreation Limited Use Combining Zone
IAMP	Interchange Area Management Plan
ITE	Institute of Transportation Engineers
LCDC	Land Conservation & Development Commission
LLD	Limited Land Use Decision
LOMA	Letter of Map Amendment
LOMC	Letter of Map Change
LUBA	Land Use Board of Appeals
LUOZ	Limited Use Overlay Zone
LWI	Local Wetland Inventory
MABOZ	Mining Activity Buffer Overlay Zone
MIMOZ	Mining Impact Mitigation Overlay Zone
ME	Mineral Extraction Zone
MSLUC	Motor Sports Limited Use Combining Zone
NFIP	National Flood Insurance Program
NHOTICOZ	National Historic Oregon Trail Interpretive Center Overlay Zone
NRCS	US Natural Resources Conservation Service

OAR	Oregon Administrative Rule
ODF	Oregon Department of Forestry
ODFW	Oregon Department of Fish and Wildlife
ODOT	Oregon Department of Transportation
OMLUC	Old Mill Limited Use Combining Zone
ORS	Oregon Revised Statute
PAPA	Post Acknowledgement Plan Amendment
PF	Primary Forest Zone
RC	Rural Commercial Zone
RI	Rural Industrial Zone
RPZ	Runway Protection Zone
RR-2	Recreation Residential zone
RR-5	Rural Residential zone
RSA	Rural Service Area
SBHCOZ	Sensitive Bird Habitat Consultation Overlay Zone
SFHA	Special Flood Hazard Area
SM	Surface Mining Zone
SVMA	Sumpter Valley Management Area
SVOZ	Sumpter Valley Overlay Zone
SWI	Statewide Wetland Inventory
TC	Tourist Commercial Zone
TCLUOZ	Tourist Commercial Limited Use Overlay Zone
TG	Timber Grazing Zone
TIA	Transportation Impact Analysis
TSP	Baker County Transportation System Plan
USFS	United States Forest Service

UUC Urban Unincorporated Communities

V/C Ratio Volume to Capacity Ratio

WOZ Wetlands Overlay Zone

**Chapter 110**  
**INTRODUCTORY PROVISIONS**

- 110.01 Purpose**
- 110.02 Short Title**
- 110.03 Adoption**
- 110.04 Purposes of the Ordinance**
- 110.05 Repealer**

**110.01 Purpose.** The purpose of this Chapter is to indicate the title and intent of this Ordinance and to list other regulations repealed by this Ordinance.

**110.02 Short Title.** This Ordinance may be cited as the “*Baker County Zoning Ordinance of 2014*” or “*Ordinance No. 2014-01*” or “*Baker County Zoning Ordinance*”.

**110.03 Adoption.** There is hereby adopted as provided herein an Ordinance for Baker County, a political subdivision of the State of Oregon.

**110.04 Purposes of the Ordinance.** The purposes of this Ordinance are to coordinate Baker County regulations governing the development and use of land, to implement the Baker County Comprehensive Plan, to provide for orderly growth and development throughout Baker County, and to promote the public health, safety, and welfare of the citizens of Baker County.

**110.05 Repealer.** The following ordinances, together with all amendments thereto, are repealed on the effective date of this Ordinance:

The Baker County Zoning and Subdivision Ordinance adopted March 9, 1984, the Baker County Flood Damage Prevention Ordinance 88-2 adopted May 1988, the Ordinance Providing for the Implementation of the Sumpter Valley Dredge Tailing Management Plan recorded as Court 79-16-057 and Court 84-11-096, and all following amendments through Ordinance 2012-03 adopted on December 5, 2012.



**Chapter 115**  
**DECISION-MAKING PROCEDURES**

- 115.01 Purpose**
- 115.02 Description of Decision-Making Procedures**
- 115.03 Applications**
- 115.04 General Provisions**
- 115.05 Type I Procedure**
- 115.06 Type II Procedure**
- 115.07 Type III Procedure**
- 115.08 Type IV Procedure**
- 115.09 Special Procedures**
- 115.10 Revocation of Permits**

**115.01 Purpose.** The purpose of this Chapter is to establish a series of standard decision-making procedures that will enable the County, the applicant, and all interested parties to reasonably review applications and participate in the local decision-making process in a timely and effective way. Each permit or action set forth in Article 2, as well as other substantive chapters of this Ordinance has been assigned a specific procedure type.

**115.02 Description of Decision-Making Procedures**

- A. General. All development permit applications shall be decided by using one of four procedure types, as described in subsection 115.02(B). The procedure type assigned to each action governs the decision-making process for that permit, except to the extent otherwise required by applicable state or federal law. The Planning Director shall be responsible for assigning specific procedure types to individual permit or action requests, as requested. Special alternative decision-making procedures have been developed by the County in accordance with existing state law, and are codified in Section 115.08.
- B. Types defined. There are four types of decision-making procedures, as follows:
  - 1. Type I procedures apply to ministerial permits and actions containing clear and objective approval criteria. Type I actions are decided by the Planning Director without public notice and without a public hearing.
  - 2. Type II procedures apply to administrative permits and actions that contain limited discretionary criteria. Type II actions are decided by the Planning Director with public notice and an opportunity for a hearing. If any party with standing appeals the Planning Director's Type II decision, the Planning Commission will hear the appeal of such decision.
  - 3. Type III procedures apply to quasi-judicial permits and actions that predominantly contain discretionary approval criteria. Type III actions are decided either by the Planning Commission or by a Hearings Officer, with appeals heard by the Board of Commissioners. Type III actions are either designated as Type III-PC (Planning Commission) or Type III-HO (Hearings Officer).
  - 4. Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision or large-scale implementation of public policy. Type IV matters are considered initially by the Planning Commission with final decisions made by the Board of Commissioners.

- C. Determination of decision-making type. The Planning Director shall have the initial authority to determine the proper decision-making type relevant to the permit or actions requested. The decision of the Planning Director may be appealed only as a relevant issue through the process assigned by the Planning Director to the underlying permits. If the Planning Director's determination regarding the proper decision-making type is not raised as an issue within the process assigned by the Planning Director to the permit or action requested, the Planning Director's decision shall be final concerning the applicable decision-making type.
- D. Planning Director Discretion. The Planning Director has the discretion to re-designate an application for a Type II review as a Type III review, if they judge that the specific case has unusual circumstances and/or will generate substantial public interest. The Planning Director shall notify the applicant in writing of their intent to review the application by means of a Type III procedure within 30 days of the submission of a complete application, per the requirements of Section 115.03. The Planning Director also has the discretion to determine that applications for properties with unresolved violations are not eligible for additional permits, with the exception of septic repair, until said violations are resolved.
- E. Hearings Officer Discretion. The Hearings Officer has the discretion to re-designate an application for a Type III Hearings Officer review as a Type III Planning Commission review, if they judge that the specific case has unusual circumstances and/or will generate substantial public interest. The Hearings Officer shall notify the applicant in writing of their intent to review the application by means of a Type III Planning Commission procedure within 30 days of the submission of a complete application, per the requirements of Section 115.03.

**115.03 Applications.** The following standards shall be used to process land use applications:

- A. Initiation of applications. Any persons authorized by this Ordinance to submit an application for approval may be represented by an agent authorized in writing to make the application. Applications for approval under this Chapter may be initiated by:
  - 1. Order of the Board of Commissioners;
  - 2. Resolution of the Planning Commission;
  - 3. Planning Director; and
  - 4. Application of a recorded owner of property or contract purchaser(s).
- B. Pre-application conferences:
  - 1. Participants. When a pre-application conference is required or requested by the applicant, the applicant shall meet with the Planning Director or their designee(s).
  - 2. Information provided. At such conference, the Planning Director or designee shall:
    - a. Cite the applicable zoning map designations;
    - b. Cite the applicable substantive and procedural ordinance provisions that apply to the request;
    - c. Provide technical data and assistance that will aid the applicant;

- d. Identify other policies and regulations that relate to the application;
  - e. Provide a copy of the applicable application form, and identify the submission requirements and filing fee; and
  - f. Identify other opportunities or constraints that relate to the application.
3. Disclaimer. Failure of the Planning Director to provide any of the information required by this Chapter shall not constitute a waiver of the standards, criteria or requirements of the applications.
  4. Changes in Law. Due to possible changes in federal, state and local law, information given by staff of the Planning Department to the applicant during the pre-application conference concerning these laws must be verified by the applicant to ensure that such laws are current on the date the application is submitted. The applicant, with the help of the Planning Department staff, is responsible for ensuring that its application complies with all of the law applicable on the day the application is deemed complete.

C. Applications:

1. Before approving any development, the Planning Director shall be provided with information by the applicant sufficient to establish full compliance with the requirements of this Ordinance. Where multiple applications are necessary to permit a proposed development, the Planning Director may undertake a consolidated review of the simultaneous applications.
2. Applications shall be signed by all owners of record or their authorized agent(s).
3. If an applicant submits a letter of withdrawal of an application, the application shall be terminated, the application withdrawn and the file closed without a decision and without any right to a refund of any application filing fee.

D. Consolidation of proceedings. Whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding.

1. When a request which contains more than one approval is consolidated, the hearings shall be held by the highest approval authority having original jurisdiction over one of the applications under Section 115.03(B) in the following order of preference: the Board of Commissioners, Planning Commission, Hearings Officer, or the Planning Director.
2. Where there is a consolidation of proceedings.
  - a. The notice shall identify each action to be taken;
  - b. The decision on a plan, map or text amendment shall precede the decision on the proposed zone change and other actions; and,
  - c. Separate actions shall be taken on each application.

E. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

1. Acceptance. When the County receives an application, the Planning Director shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant. The required items include:
  - a. The required form;
  - b. The required fee; and
  - c. The signature of the applicant on the required form.
  
2. Required information. The following information will be required of all land use permits, if applicable to the specific request. Documentation in addition to or in lieu of the following list may be required for a specific permit or action, as required by other chapters of this Ordinance. The Planning Director will have the ultimate authority to determine what information is required, including the request of additional or a waiver of required information. The following information is required, if applicable to the request:
  - a. Appropriate application form.
  - b. Narrative that describes the proposed project and addresses the applicable approval criteria.
  - c. A site plan satisfying the criteria in Section 310.04(A).
  - d. All owners of record or their authorized agent(s) signatures.
  
3. Completeness Review. When an application is submitted and received by the Planning Department, staff shall review the application for completeness. The completeness review shall be concluded in a reasonable period of time, not to exceed 30 days from the date the application was received.
  - a. Complete application. If the application is deemed complete, the Department shall sign and date the application, specifying the date it was determined to be complete. The land use action process shall begin, and be subject to statutory time limits, on the date the application was determined to be complete.
  - b. Incomplete application. If an application is determined to be incomplete, the County shall notify the applicant in writing, within 30 days of the date the application was received, to specify exactly what information is missing, and to allow the applicant up to 180 days from the date the application was initially received to submit a written response. The application shall be deemed complete for the purpose of initiating the land use action process when the County receives, in writing, one of the following:
    - i. All of the missing information;
    - ii. Some of the missing information and written notice from the applicant that no other information will be provided; or
    - iii. Written notice from the applicant that none of the missing information will be provided.

- c. On the 181<sup>st</sup> day after first being received by the County, an incomplete application shall be void if the applicant was notified of the missing information and failed to respond in writing as provided in Section 115.03(F)(2), without any right to a refund of any application filing fee.
  - d. Once the land use action process is initiated, the County shall make its final local decision within the time frame specified in ORS 215.427.
  - e. The statutory time limit for making a final local decision (150/120 days) may be extended, upon written request from the applicant, as long as the total of all such extensions does not exceed 215 days.
- F. Changes or additions to the application during the review period. Once an application is deemed complete:
- 1. All documents and other evidence relied upon by the applicant, but submitted after the application has been deemed complete, shall be submitted to the Planning Director at least seven days before the notice of action or hearing is mailed. Documents or other evidence submitted after that date shall be received by the Planning Director, but may be too late to be considered by the Planning Director in the staff report or Planning Director's decision, as the case may be.
  - 2. When the applicant submits documents or other evidence during the review period, but after the application is deemed complete, the Planning Director, Hearings Officer or Planning Commission, as the case may be, may determine whether or not the new documents or other evidence submitted by the applicant, significantly changes the application.
  - 3. If the Planning Director, Hearings Officer or Planning Commission, as the case may be, determines that the new documents or other evidence significantly changes the application, the Planning Director, Hearings Officer or Planning Commission shall make a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the Planning Director, Hearings Officer or Planning Commission, as the case may be, may inform the applicant either in writing, or orally at a public hearing, that such changes will likely constitute a significant change, and provide the applicant with the opportunity to withdraw the new materials submitted, to avoid a determination of significant change.
  - 4. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the County shall take one of the following actions:
    - a. Continue to process the existing application and allow the applicant to resubmit a new application with the proposed significant changes. In this situation, both the old and the new applications will be allowed to proceed; however, each will be deemed complete on different dates and may be subject to different laws.
    - b. Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. In this situation, before the existing application can be suspended, the applicant must consent to a waiver of the 150-day rule on the suspended application. If the applicant does not consent, the County shall not select this option.
    - c. Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. In this situation, the County will complete its initial decision-making process without considering the new evidence.

5. If a new application is resubmitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and may be subject to new standards and criteria, pursuant to the law in effect at the time the new application is deemed complete.

#### **115.04 General Provisions.**

- A. Planning Director's Duties. With regard to processing applications submitted under this Chapter, the Planning Director shall:
  1. Prepare application forms made pursuant to the standards contained in the applicable state law, comprehensive plan and implementing ordinance provisions.
  2. Accept all land use applications.
  3. Prepare a staff report or notice to the proposal when required:
    - a. In the case of an application subject to a Planning Director's decision, make the staff report and all case-file materials available at the time the notice of the decision is given; and
    - b. In the case of an application subject to a hearing before the Planning Commission or Hearings Officer, the Planning Director shall mail the staff report to the Planning Commission or Hearings Officer seven days prior to the scheduled hearing date. The case-file materials and staff report shall also be made available to the public seven days prior to the scheduled hearing date, as provided by Section 115.07(C)(1)(d) and Section 115.08(C)(2)(d).
  4. Administer the hearings process.
  5. Maintain a register of all applications that have been filed for a decision.
  6. File notice of the final decision in the records of the Planning Department and mail a copy of the notice of the final decision to the applicant and all parties and to those persons requesting copies of such notices who paid the necessary fees.
  7. Maintain and preserve the file for each application, according to the OAR timeline for records retention. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given, and the accompanying affidavits, the application and all supporting information, the staff report, the final decision, including the findings, conclusions and conditions (if any), all correspondence, and minutes of any meeting at which the application was considered and any other exhibit, information or documentation which was considered by the decision-making body with respect to the application.
  8. Administer the appeals and review process.
- B. Amended Decision Process.
  1. The Planning Director may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 14 days after the original decision would have become final, but in no event beyond the 150-day period required by state law.

2. The notice for an amended decision shall be the same as that which applies to a Type II procedure as governed by Section 115.06(E).
  3. The purpose of an amended decision is to provide the Planning Director the ability to correct typographical errors, rectify inadvertent omissions and/or make other minor changes, which do not materially alter the decision.
- C. Re-Submittal of Application Following Denial. An application which has been denied or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted for the same or a substantially similar proposal and/or action for at least 12 months from the date the final County action is made denying the application unless there is substantial change in the facts or a change in County policy or regulations that would change the outcome.

### **115.05 Type I Procedure**

- A. Pre-application conference. A pre-application conference is not required for a Type I procedure.
- B. Application requirements:
1. Application forms. Type I applications shall be made on forms provided by the Planning Director.
  2. Submittal Information. Type I applications shall:
    - a. Include all of the information requested on the application form as provided by the Planning Director.
    - b. Contain all of the relevant information required in Section 115.03 and any additional information required for a specific permit as contained in Article 2 or in other substantive chapters of this Ordinance.
    - c. Address the relevant approval criteria in sufficient detail for review and action. The criteria are found in the chapters related to specific permits, as contained in Article 2 and other substantive chapters of this Ordinance.
    - d. Be accompanied by the required fee.
- C. Administrative decision. The Planning Director's decision shall address all of the relevant approval criteria related to the specific request. Based on the criteria and the facts contained within the record, the Planning Director shall approve, approve with conditions or deny the requested permit or action.
- D. Final decision. The Planning Director's decision is final for purposes of appeal on the date it is mailed or otherwise provided to the applicant, whichever occurs first. The Planning Director's decision cannot be appealed at the local level, and is the final decision of the County.

### **115.06 Type II Procedure**

A. Pre-Application conference. A pre-application conference is optional at the discretion of the applicant for Type II actions. Pre-application conference requirements and procedures are set forth in Section 115.03(B).

B. Submission requirements:

1. Application Forms. Type II applications shall be made on forms provided by the Planning Director.
2. Submittal Information. Type II applications shall:
  - a. Include all of the information requested on the application form as provided by the Planning Director.
  - b. Contain all of the relevant information required in Section 115.03 and any additional information required for a specific permit as contained in Article 2 or in other substantive chapters of this Ordinance.
  - c. Address the relevant approval criteria in sufficient detail for review and action. The criteria are found in the chapters related to specific permits as contained in Article 2 and other substantive chapters of this Ordinance.
  - d. Be accompanied by the required fee.
  - e. Include impact studies necessary for determining the effect and/or impact of a proposed development on public facilities or services, properties in the area, or the public at large, as determined by the Planning Director:
    - i. These studies shall quantify the effect of the development on public facilities and services including, but not limited to, impacts on the transportation, stormwater drainage, water, sewer and parks systems.
    - ii. When one or more of these impact studies is required, the applicant shall propose improvements necessary to meet County standards and to minimize the impact of the proposed development on the public at large, public facilities systems, and affected private property users.
    - iii. In situations where the Planning Director requires the dedication of real property interests, the applicant shall either specifically concur with the dedication requirements, or provide evidence that supports the conclusion that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Notice of pending Type II decision.

1. Prior to making a Type II decision, the Planning Director shall provide written notice to:
  - a. All owners of record within a specified distance of the subject site. The distance from the site subject to this notification requirement depends on the zoning designation of the subject site and is governed by the notification distances contained in ORS 215.416(11)(c)(A):



- i. Within 100 feet of the property that is the subject of the notice or to the affected city's notification requirements (whichever is most restrictive) when the subject property is wholly or in part within an urban growth boundary;
    - ii. Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a resource zone; or
    - iii. Within 1500 feet of the property that is the subject of the notice when the subject property is within a resource zone.
  - b. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the County that includes provision for such notice or who is otherwise entitled to such notice.
  - c. Any neighborhood or community organization recognized by the County and whose boundaries include the site.
2. The purpose of such notice is to provide nearby property owners and other interested parties with an opportunity to submit written comments concerning the application, prior to issuance of the Type II decision. The goal of this notice is to invite relevant parties of interest to participate early in the decision-making process.
3. Notice of a pending Type II decision shall:
- a. Provide a 14-day period for the submission of written comments prior to issuance of a decision on the permit.
  - b. List the applicable approval criteria relevant to the decision.
  - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed.
  - d. Include the name of the County representative to contact and the telephone number where additional information may be obtained.
  - e. Identify the specific permits or approvals requested.
  - f. Describe the street address or other easily understandable geographic reference to the subject property.
  - g. Indicate that failure of any party to address the relevant approval criteria with sufficient specificity may preclude subsequent appeals to the Land Use Board of Appeals or Oregon Court of Appeals on that issue. Comments directed at the relevant approval criteria are what constitute relevant evidence.
  - h. Indicate that all evidence relied upon by the Planning Director to make this decision shall be contained within the record, and is available for public review. Copies of this evidence can be obtained at a reasonable cost from the Planning Director.
  - i. Indicate that after the comment period closes, the Planning Director shall issue a Type II decision. The Planning Director's decision shall be mailed to the applicant and to owners of

record of property located within the notification distance of the applicable zoning designation and to anyone else who submitted written comments or who is otherwise entitled to notice.

- j. Contain the following notice: *“Notice to mortgagee, lienholder, vendor, or seller: The Baker County Zoning Ordinance requires that if you receive this notice it shall be promptly forwarded to the purchaser.”*

4. Notice List. The records of Baker County Assessor’s Office are the official records for determining ownership. The most current assessment records must be used to produce the notice list.

D. Administrative decision requirements. The Planning Director’s decision shall address all of the relevant approval criteria. Based upon the criteria and the facts, the Planning Director shall approve, approve with conditions or deny the requested permit or action.

E. Notice of decision.

1. Within 5 days after signing the decision, a Notice of Decision shall be sent by mail to:

- a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
- b. All owners of record of property as shown on the most recent property tax assessment roll within the notification distance of the applicable zoning designation and to anyone else who submitted written comments or who is otherwise entitled to notice.
- c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the County that includes provision for such notice or who is otherwise entitled to such notice.
- d. Any neighborhood or community organization recognized by the County and whose boundaries include the site.

2. The Planning Director shall cause a notarized affidavit of mailing of such notice to be prepared and made a part of the file, which indicates the date the notice was mailed and demonstrates that the required notice was mailed to the necessary parties in a timely manner.

3. The Type II Notice of Decision shall contain information as follows:

- a. The nature of the application in sufficient detail to inform persons entitled to notice of the applicant’s proposal and of the decision;
- b. The address or other geographic description of the subject property, including a map of the site in relation to the surrounding area, where applicable;
- c. A statement of where the Planning Director’s decision can be obtained;
- d. The date the Planning Director’s decision shall become final, unless appealed;
- e. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision;

- f. A statement briefly explaining how an appeal can be taken, the deadline for filing such an appeal, and where further information can be obtained concerning the appeal; and
  - g. A statement that unless the applicant is the appellant, the hearing on an appeal from the Planning Director's decision shall be confined to the specific issues identified in the written comments submitted by the parties during the comment period. Additional evidence concerning issues properly raised in the Notice of Appeal may be submitted by any party during the appeal hearing, subject to any additional rules of procedure that may be adopted from time to time by the Decision Making Body.
- F. Final decision and effective date. A Type II decision is final for purposes of appeal when notice of the decision is mailed. A Type II decision becomes effective on the day after the appeal period expires, unless an appeal is filed. If an appeal is filed and dismissed after the appeal period has expired, the Type II decision becomes effective on dismissal of the appeal.
- G. Appeal. A Type II administrative decision may be appealed as follows:
1. *Standing to appeal.* The following parties have standing to appeal a Type II decision:
    - a. The applicant;
    - b. The property owner(s);
    - c. Any party who was mailed written notice of a pending Type II administrative decision; and
    - d. Any other party who demonstrates by clear and convincing evidence that they participated in the proceeding through the submission of written or verbal testimony.
  2. Appeal procedure:
    - a. *Notice of appeal.* Any party with standing, as provided in Section 115.06(G)(1), may appeal a Type II decision by filing a Notice of Appeal according to the following procedures.
      - i. *Time for filing.* A Notice of Appeal shall be filed with the Planning Director within 12 days of the date the Notice of Decision was mailed.
      - ii. *Content of Notice of Appeal.* The Notice of Appeal shall contain:
        - 1) An identification of the decision being appealed, including the date of the decision;
        - 2) A statement demonstrating the party filing the Notice of Appeal has standing to appeal;
        - 3) A detailed statement of the specific issues raised on appeal;
        - 4) A statement demonstrating that the specific issues raised on appeal were raised during the comment period, except when the appeal is filed by the applicant; and
        - 5) Filing fee.
      - iii. All Notices of Appeal for Type II appeals shall be filed with the Planning Director, together with the required filing fee. The maximum fee for an initial hearing shall be the cost to the

local government for preparing and for conducting the hearing, or the statutory maximum, whichever is less.

- b. *Scope of appeal.* The appeal of a Type II decision by a person with standing shall be limited to the specific issues raised during the written comment period, as provided under Section 115.06(C).
  - i. In extraordinary circumstances only, the Planning Commission, at its discretion, should consider new issues and allow additional evidence or testimony, concerning any other relevant issue, on appeal of a Type II decision.
  - ii. The Planning Commission may allow such additional evidence if it determines that such evidence is necessary to resolve the case. The intent of this requirement is to limit the scope of Type II appeals by encouraging persons with standing to submit specific concerns in writing during the comment period. The written comments received during the comment period will usually limit the scope of issues on appeal.
- c. *Appeal procedures.* Type III notice and hearing procedures shall be used for all Type II appeals, as provided in Section 115.07(C) to Section 115.07(F).

H. Final decision and effective date. The decision of the Planning Commission with regard to any appeal of a Type II decision is the final decision of the County. The decision of the Planning Commission is final for purposes of appeal on the day the decision is mailed. The decision is effective on the day after the appeal period expires, unless an appeal is filed. If an appeal is filed, the decision is effective on the day after the appeal is resolved.

### **115.07 Type III Procedure**

- A. Pre-application conference. A pre-application conference is required for all Type III actions. The requirements and procedures for a pre-application conference are described in Section 115.03(B).
- B. Submission requirements:
  - 1. *Application Forms.* Type III applications shall be made on forms provided by the Planning Director.
  - 2. *Submittal Information.* Type III applications shall:
    - a. Include all of the information requested on the application form as provided by the Planning Director.
    - b. Contain all of the relevant information required in Section 115.03 and any additional information required for a specific permit as contained in Chapter 210 to Chapter 290 or elsewhere in this Ordinance.
    - c. Address the relevant approval criteria in sufficient detail for review and action. The criteria are found in the chapters related to specific permits as contained in Chapter 210 to Chapter 290 and other substantive chapters of this Ordinance.
    - d. Be accompanied by the required fee.

- e. Include impact studies as determined by the Planning Director:
  - i. These studies shall quantify the effect of the development on public facilities and services including impacts on the transportation, stormwater drainage, water, sewer and parks systems.
  - ii. When one or more of these impact studies is required, the applicant shall propose improvements necessary to meet County standards and to minimize the impact of the proposed development on the public at large, public facilities systems, and affected private property users.
  - iii. In situations where the Planning Director requires the dedication of real property interests, the applicant shall either specifically concur with the dedication requirements, or provide evidence that supports the conclusion that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Notice of hearing:

- 1. *Mailed notice.* Notice of a Type II appeal hearing or Type III hearing shall be given by the Planning Director in the following manner:
  - a. At least 20 days prior to the hearing date, notice shall be sent by mail to:
    - i. The applicant and all owners or contract purchasers of record for the site that is the subject of the application;
    - ii. All owners of record within a specified distance of the subject site shall be notified of the pending decision. The distance from the site subject to this notification requirement depends on the zoning designation of the subject site and is governed by the notification distances contained in ORS 215.416(11)(c)(A):
      - 1) Within 100 feet of the property that is the subject of the notice or to Baker City notification requirements (whichever is most restrictive) when the subject property is wholly or in part within an urban growth boundary;
      - 2) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a resource zone; or
      - 3) Within 1500 feet of the property that is the subject of the notice when the subject property is within a resource zone.
    - iii. Any affected governmental agency which has entered into an intergovernmental agreement with the County which includes provision for such notice, or who is otherwise entitled to such notice;
    - iv. Any neighborhood or community organization recognized by the County and whose boundaries include the site;
    - v. Any person who has submitted a written request, and who has paid a fee established by the Baker County Board of Commissioners; and

- vi. In actions involving appeals, the appellant and all parties to the appeal.
  - b. The Planning Director shall cause a notarized affidavit of mailing of notice to be prepared and made a part of the file, which demonstrates the date that the required notice was mailed to the necessary parties.
  - c. At least 14 days prior to the hearing, notice of the hearing shall be published in a newspaper of general circulation in the County. An affidavit of publication concerning such notice shall be made part of the administrative record.
  - d. At least 7 days prior to the hearing, the Planning Director shall mail the staff report to the Planning Commission or Hearings Officer and make the case-file materials and staff report available to the public.
2. *Content of notice.* The Notice of a Type II appeal hearing or Type III hearing to be mailed and published as provided in Section 115.07(C)(1) shall contain the following information:
- a. Explain the nature of the application and the proposed use or uses that could be authorized.
  - b. List the applicable criteria from the Baker County Zoning Ordinance, the Baker County Comprehensive Plan, Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OARs) that apply to the application at issue.
  - c. Set forth the street address or other easily understood geographical reference to the subject property.
  - d. State the date, time and location of the hearing.
  - e. State that any person may comment in writing and include a general explanation of the requirements for submission of testimony and the procedures for conduct of testimony, including, but not limited to, a party's right to request a continuance or to have the record held open.
  - f. State that failure to raise an issue at the hearing, in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeal based on that issue.
  - g. Include the name of the County representative to contact and the telephone number where additional information may be obtained.
  - h. State that a copy of the application and all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and that copies can be provided at a reasonable cost.
  - i. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and that a copy can be provided at a reasonable cost.
  - j. Include a general explanation of the procedure for conducting hearings.
  - k. Contain the following notice: "*Notice to mortgagee, lien-holder, vendor, or seller: This Ordinance requires that if you receive this notice it shall be promptly forwarded to the purchaser.*"

3. *Notice List.* The records of the Baker County Assessor's Office are the official records for determining ownership. The most current assessment records must be used to produce the notice list.

D. Submission of Testimony

1. Testimony can be submitted prior to the hearing in writing or verbally at the hearing.
  - a. Testimony submitted in writing shall include eight copies, for Planning Commission members and staff.
  - b. Testimony submitted digitally or without the requisite eight copies shall be assessed reasonable fees associated with copying. Fees are determined according to the Baker County fee schedule which is approved by the Board of Commissioners.
  - c. Written testimony must be fully contained in the text of the letter, email, memo or report. Submissions that cite URLs or other external sources will be considered incomplete.
  - d. The person providing testimony is responsible for providing a specific nexus between the documents submitted and the criteria the decision-making body must consider. Testimony which fails to do so may not be considered in the decision-making process.
  - e. The person providing testimony is responsible for confirming receipt of said testimony by Planning Department staff prior to the hearing.

E. Conduct of the hearing.

1. At the commencement of the hearing, a statement shall be made to those in attendance that:
  - a. Lists the applicable substantive criteria.
  - b. States that testimony and evidence shall be directed toward the relevant approval criteria described in the staff report or other criteria in the plan or land use regulation that the person testifying believes to apply to the decision.
  - c. States that failure to raise an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals or Oregon Court of Appeals on that issue.
  - d. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional relevant evidence or testimony regarding the application so long as that evidence and testimony is within the scope of the hearing. The local Decision Making Body shall grant such request by continuing the public hearing, pursuant to Section 115.07(E)(2) or by leaving the record open for additional written evidence or testimony, pursuant to Section 115.07(E)(3).
2. If the Decision Making Body grants a continuance, the hearing shall be continued to a specified date, time, and place at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony. If new written evidence is submitted at the continued hearing, any person

may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days, to submit additional written evidence or testimony for the purpose of responding to the new written evidence.

3. If the Decision Making Body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the County for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the Decision Making Body shall reopen the record, pursuant to Section 115.06(E)(5).
  - a. When the Decision Making Body reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
  - b. An extension of the hearing or record granted pursuant to Section 115.07(E) is subject to the limitations of ORS 215.427 (“120-day rule”), unless the continuance or extension is requested or agreed to by the applicant;
  - c. If requested by the applicant, the County shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence;
  - d. The record shall contain all testimony and evidence that is submitted to the County and that the hearings body has not rejected;
  - e. In making its decision, the hearings body may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous county decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;
  - f. The review authority shall retain custody of the record until the County issues a final decision.
4. Participants in the appeal of a Type II Administrative decision or participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing *ex parte* contacts (see subsection (5) below) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
  - a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing *ex parte* contacts (as defined in subsection (5) below) concerning the application or appeal. The hearings body member shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
  - b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;



- c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
  - d. If a member of the hearings body abstains or is disqualified, the County may provide a substitute in a timely manner subject to administrative impartiality rules.
  - e. If all members of the Planning Commission abstain or are disqualified, the Board of Commissioners shall be the hearing body. If all members of the Board of Commissioners abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
  - f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this Section.
5. *Ex parte* communications.
- a. Members of the Decision Making Body shall not:
    - i. Communicate, directly or indirectly, with any party or representative of a party in connection with any issue involved in a hearing, except upon giving notice, and an opportunity for all parties to participate.
    - ii. Take notice of any communication, report or other materials outside the record prepared by the proponents or opponents in connection with the particular case unless the parties are afforded an opportunity to contest the materials so noticed.
  - b. No decision or action of the Decision Making Body shall be invalid due to *ex parte* contacts or bias resulting from *ex parte* contacts with a member of the Decision Making Body if the member of the Decision Making Body receiving contact:
    - i. Places on the record the substance of any written or oral *ex parte* communications concerning the decision or action; and
    - ii. Makes a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action shall be considered or taken on the subject to which the communication is related.
  - c. Members of the Decision Making Body shall be governed by the provisions of ORS 244.135 and the provisions of this Section.
  - d. A communication between County staff and the Decision Making Body shall not be considered an *ex parte* contact.
6. Presenting and receiving evidence:
- a. The Decision Making Body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony.

- b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing but only pursuant to the schedule and procedure announced by the Decision Making Body prior to the close of the public hearing, or as otherwise provided by this Section.
- c. The Decision Making Body may visit the site and the surrounding area, and may use information obtained during the site visit to support their decision, provided the information relied upon is disclosed at the hearing and that an opportunity is provided to rebut such evidence. In the alternative, a site visit may be conducted by the Decision Making Body for the purpose of familiarizing the Decision Making Body with the site and the surrounding area, but not for the purpose of independently gathering evidence. In such a case, at the commencement of the hearing, members of the Decision Making Body shall disclose the circumstances of their site visit and shall provide the parties with an opportunity to question each member of the Decision Making Body concerning their site visit.

F. The decision process:

- 1. Basis for Decision. Approval or denial of a Type II appeal or Type III action shall be based on standards and criteria set forth in the Baker County Zoning Ordinance, and which shall relate approval or denial of a discretionary permit application to the Ordinance.
  - 2. Findings and Conclusions. Approval or denial of a Type II appeal or Type III action shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards, and facts set forth.
  - 3. Form of Decision. The Decision Making Body shall issue a Final Order containing the above-referenced findings and conclusions, that either approves, denies or approves the permit or action with conditions. The Decision Making Body may also issue any intermediate rulings as it sees fit.
  - 4. Decision-making time limits. A Final Order for any Type II appeal or Type III action shall be filed with the Planning Director within 10 days after the close of the deliberation.
- G. Notice of Decision. Notice of Decision for a Type II appeal decision or a Type III decision shall be mailed to the applicant and to all parties of record within 5 days after the decision is filed by the Decision Making Body with the Planning Director. Failure to receive mailed notice shall not invalidate the action, provided that a good faith attempt was made to mail such notice.
- H. Final decision and effective date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the County. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the Baker County Board of Commissioners. The notification and hearings procedures for Type III applications on appeal to the Board of Commissioners shall be the same as for the initial hearing. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within 21 days of the Baker County Board of Commissioners' written decision or, in the case of Type I decision, within 21 days of the administrative decision date.
- I. Appeal Procedure: The procedure for appeal shall be as follows:

1. A notice of intent to appeal must be submitted, in writing, to the Baker County Planning Department.
  - a. The appeal shall include sufficient specificity so as to aid the Board of Commissioners in addressing the criteria for appeal.
  - b. At least one copy of all appeal materials shall be made for all Planning Commission members and Planning Department staff.
  - c. Appeal materials submitted digitally or without the requisite number of copies shall be assessed reasonable fees associated with copying. Fees are determined according to the Baker County fee schedule which is approved by the Board of Commissioners.
  - d. Written testimony must be fully contained in the text of the letter, email, memo or report. Submissions which cite URLs or other external sources will be considered incomplete.
2. An appeal to the Board of Commissioners shall be scheduled within 30 days from the date the appeal is filed.
3. The Board of Commissioners may review a lower decision upon its own motion after giving 10 days notice to the parties involved in the decision and if such review is initiated within 10 days of the receipt of notice of the lower decision.
4. Notice of the appeal will be mailed to all parties of record at least 10 days prior to the scheduled hearing. The appeal date and time will appear on the Board agenda.
5. An appeal to the Board of Commissioners is a record review. No new testimony will be received by the Board of Commissioners. Because it is a record review, only one representative each from appellant, applicant and County may make an argument. The argument shall refer to the record, the criteria and the decision documents.
6. The Board of Commissioners may continue the hearing. Unless otherwise required by statute or administrative rule, no additional notice need be given of a continued hearing if the matter is continued to a specific date established at the hearing.
7. The Board of Commissioners shall remand back to the Planning Commission for rehearing any appeal in which new information is revealed which was not part of the record and which might have influenced the original decision.
8. A decision of the Board of Commissioners will be made by order signed by a majority of the Board.
9. A land use decision by the Board of Commissioners may be appealed to the Land Use Board of Appeals in accordance with the Board's rules and procedures.

### **115.08 Type IV Procedure**

- A. Pre-application conference. A pre-application conference is required for all Type IV actions. The requirements and procedures for a pre-application conference are described in Section 115.03(B).
- B. Submission requirements:

1. *Application forms.* Type IV applications shall be made on forms provided by the Planning Director.
2. *Submittal information.* Type IV applications shall:
  - a. Include all of the information requested on the application form as provided by the Planning Director;
  - b. Contain all of the relevant information required in Section 115.03 and any additional information required for a specific permit as contained in Chapter 210 to Chapter 290 or elsewhere in this Ordinance.
  - c. Address the relevant approval criteria in sufficient detail for review and action. The criteria are found in the chapters related to specific permits as contained in Chapter 210 to Chapter 290 and other substantive chapters of this Ordinance.
  - d. Be accompanied by the required fee.
  - e. Be accompanied by six copies of the narrative.

C. Notice of hearing:

1. *Required hearings.* Three hearings, one before the Planning Commission and two before the Board of Commissioners, are required for all Type IV actions.
2. *Notification requirements.* The Planning Director shall give notice of the public hearings for the request in the following manner:
  - a. At least 35 days prior to the first scheduled evidentiary hearing date, notice shall be sent to the Department of Land Conservation and Development.
  - b. At least 20 days prior to the scheduled hearing date, notice shall be sent to:
    - i. The applicant;
    - ii. Any affected governmental agency;
    - iii. Any neighborhood or community organization recognized by the County and whose boundaries include the site;
    - iv. Any person who requests notice in writing and pays a fee if established by Board of Commissioners resolution.
  - c. At least 14 days prior to the scheduled public hearing date, notice shall be published in a newspaper of general circulation in the County.
  - d. At least 7 days prior to the hearing, the Planning Director shall mail the staff report to the Board of Commissioners or Planning Commission, and make the case-file materials and staff report available to the public.
  - e. The Planning Director shall:

- i. For each mailing of notice, cause a notarized affidavit of mailing to be filed and made a part of the record which demonstrates the date that the required notice was mailed to the necessary parties.
  - ii. For each published notice, cause an affidavit of publication to be filed and made part of the record.
- 3. *Content of notice.* The notice given to persons entitled to mailed or published notice, pursuant to this Section, shall include the following information:
  - a. The name of the County representative to contact and the telephone number where additional information may be obtained.
  - b. A description of the location or locations of the subject of the proposal reasonably calculated to give notice as to the location or locations of the affected geographic area, if applicable.
  - c. A description of the substance of the proposal in sufficient detail for people to determine that a change is contemplated and the place where all relevant materials and information may be obtained or reviewed.
  - d. The times, places and dates of the public hearings; a statement that public (oral or written) testimony is invited; and a statement that the hearing will be held under this Ordinance and rules of procedure adopted by the Board of Commissioners and available at the Planning Department office or the rules of procedure set forth in Section 115.08(D).
  - e. Each mailed notice required by this Section shall contain the following statement: *“Notice to mortgagee, lien holder, vendor, or seller: This Ordinance requires that if you receive this notice it shall be promptly forwarded to the purchaser.”*
- 4. *Failure to receive notice.* The failure of any person to receive notice as required under Section 115.08(C) shall not invalidate the action, providing:
  - a. Personal notice is deemed given where the notice is deposited with the United States Postal Service; and
  - b. Published notice is deemed given on the date it is published.
- 5. *Notice List.* The records of the Baker County Assessor’s Office are the official records for determining ownership. The most current assessment records must be used to produce the notice list.

D. Hearing process and procedure.

- 1. Unless otherwise provided in the rules of procedure adopted by the Board of Commissioners:
  - a. The presiding officer of the Planning Commission or of the Board of Commissioners, as applicable, shall have the authority to:
    - i. Regulate the course, sequence, and decorum of the hearing;

- ii. Dispose of procedural requirements or similar matters; and
    - iii. Impose reasonable time limits for oral presentations.
  - b. No person shall address the Planning Commission or the Board of Commissioners without:
    - i. Receiving recognition from the presiding officer; and
    - ii. Stating their full name and residence address.
  - c. Disruptive conduct such as audience demonstrations in the form of applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. The Planning Commission and the Board of Commissioners shall conduct the hearing as follows:
- a. The hearing shall be opened by a statement from the presiding officer setting forth the nature of the matter before the body, a general summary of the procedures set forth in this Section, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the Board of Commissioners (at the hearing of the Planning Commission) or whether it will be the final decision of the Board of Commissioners.
  - b. A presentation of the Planning Director's report and other applicable staff reports shall be given.
  - c. The public shall be invited to testify.
  - d. The public hearing may be continued to allow additional testimony or it may be closed.
  - e. The body's deliberation may include questions to the staff, comments from the staff, or inquiries directed to any person present.
- E. Continuation of the public hearing. The Planning Commission or Board of Commissioners may continue any hearing and no additional notice shall be required if the matter is continued to a specific place, date, and time.
- F. Decision-making considerations. The recommendation by the Planning Commission and the decision by the Board of Commissioners shall be based on consideration of the following factors:
- 1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statute Chapter 197;
  - 2. Any federal or state statutes or regulations found applicable;
  - 3. Any applicable Comprehensive Plan policies; and
  - 4. Any applicable provisions of the County's implementing Ordinances.
- G. Approval process and authority.

1. The Planning Commission shall:
  - a. After notice and a public hearing, formulate a recommendation to the Board of Commissioners to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
  - b. Within 10 days of determining a recommendation, cause the written recommendation to be signed by the presiding officer of the Commission and be filed with the Planning Director.
2. Any member of the Planning Commission who voted in opposition to the recommendation by the Planning Commission on a proposed change may file a written statement of opposition with the Planning Director prior to any Board of Commissioners public hearing on the proposed change. The Planning Director shall transmit a copy to each member of the Board of Commissioners and place a copy in the record.
3. If the Planning Commission fails to formulate a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative to a proposed legislative change within 60 days of its first public hearing on the proposed change, the Planning Director shall:
  - a. Report the failure together with the proposed change to the Board of Commissioners; and
  - b. Cause notice to be given, the matter to be placed on the Board of Commissioner's agenda, a public hearing to be held, and a decision to be made by the Board of Commissioners. No further action shall be taken by the Planning Commission.
4. The Board of Commissioners shall:
  - a. Have the responsibility to approve, approve with modifications, approve with conditions, deny or adopt an alternative to an application for the proposed change or to remand to the Planning Commission for rehearing and reconsideration on all or part of an application transmitted to it under this Ordinance;
  - b. Consider the recommendation of the Planning Commission, however, the Board of Commissioners is not bound by the Planning Commission's recommendation;
  - c. Act by Ordinance, which shall be signed by at least two of the Board of Commissioners after the Board of Commissioner's adoption of the Ordinance.

H. Vote required:

1. A vote by a majority of the qualified voting members of the Planning Commission present shall be required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
  2. A vote by a majority of the qualified members of the Board of Commissioners present shall be required to decide any motion made with respect to the proposed change.
- I. Notice of decision. Notice of a Type IV Decision shall be mailed to the applicant and to all parties of record within 5 days after the decision is filed by the Board of Commissioners with the Planning Director. The County shall also provide notice to all persons according to other applicable laws.

- J. Final decision and effective date. A Type IV decision shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.
- K. Record of the public hearing:
1. A verbatim record of the proceeding shall be made by stenographic or mechanical means. It shall not be necessary to transcribe testimony. The minutes and other evidence presented as a part of the hearing shall be a part of the record.
  2. All exhibits received and displayed shall be marked so as to provide identification and shall be part of the record.
  3. The official record shall include:
    - a. All materials considered by the Decision Making Body;
    - b. All materials submitted by the Planning Director to the Decision Making Body with respect to the application;
    - c. The verbatim record made by the stenographic or mechanical means, the minutes of the hearing, and other documents considered;
    - d. The Final Ordinance;
    - e. All correspondence; and
    - f. A copy of the notice that was given, accompanying affidavits and list of persons who were sent mailed notice.
- L. Appeal. There is no local appeal for a Type IV decision at the local level. A Type IV decision can be appealed to the Land Use Board of Appeals (LUBA) or the Land Conservation and Development Commission (LCDC) depending on the nature of the appeal.

### **115.09 Special Procedures**

- A. Expedited Land Divisions. An Expedited Land Division (ELD) shall be defined and may be used in the manner set forth in ORS 197.360, as may be amended from time to time, which is expressly adopted and incorporated by reference here. ELDs are only applicable to land that is zoned for residential uses and is within an urban growth boundary.
1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or planned development instead of the regular procedure type assigned to it, must request the use of the ELD at the time the application is filed, or forfeit their right to use it.
  2. Review procedure. An ELD shall be reviewed in accordance with the procedures set forth in ORS 197.365, as may be amended from time to time, which are expressly adopted and incorporated by reference here.



3. Appeal procedure. An appeal of an ELD shall be in accordance with the procedures set forth in ORS 197.375, as may be amended from time to time, which are expressly adopted and incorporated by reference here. Pursuant to ORS 197.375(3), the referee appointed by the County to conduct the appeal may use any procedure for decision-making consistent with the interests of the parties to ensure a fair opportunity to present information and argument.

B. Limited Land Use Decisions. A Limited Land Use Decision (LLD) shall be defined and may be used in the manner set forth in ORS 197.015(12), as may be amended from time to time, which is expressly adopted and incorporated by reference here. LLDs are applicable only to sites within an urban growth boundary.

1. Selection. An applicant for a permit who wishes to use a LLD procedure instead of the regular procedure type assigned to it, must request the use of the LLD at the time the application is filed, or forfeit their right to use it.
2. Decision-making procedure. A LLD shall be reviewed in accordance with the procedures set forth in ORS 197.195, as may be amended from time to time, which are expressly adopted and incorporated by reference here. The County shall follow the review procedures applicable to the County's Type II procedures, as set forth in Section 115.06 except to the extent otherwise required by applicable state law.

**115.10 Revocation of Permits.** Unless otherwise specified within this Ordinance, all land use permits may be subject to revocation by the Planning Director if it is determined the application includes false or misleading information, or if the standards or conditions governing the permit have not been met or maintained.

A. The revocation of any permit by the Planning Director shall be subject to the following rules:

1. The Planning Director shall mail the permit-holder a written statement of the proposed revocation at least 30 days prior to the date of revocation. The notice shall contain a detailed statement identifying the specific reason(s) for revocation. The notice shall advise the permit holder of the opportunity to respond to the Planning Director's statement in writing within 15 days from the date the notice is mailed by explaining or refuting the reason(s).
2. The Planning Director's action to revoke a permit shall be considered a land use decision subject to the applicable process requirements of Article 2 of this Ordinance.
3. In the event the permit-holder submits a written explanation to the notice, the Planning Director shall thereupon give careful consideration to the response in conjunction with other relevant evidence, including other written comments received in response to landowner or agency notice to determine whether revocation of the permit should occur.
4. At the conclusion of the Planning Director's review, the Planning Director shall enter findings of the decision and mail notice of the decision to revoke or not revoke to the permit-holder and other parties to the action. The notice shall explain basic appeal rights.
5. No permit shall be revoked until the appeal period for the decision to revoke has expired without an appeal.

- B. The Planning Director's decision to revoke a permit may be appealed, pursuant to the rules and procedures contained in Article 2 of this ordinance governing the appeal of land use decisions. In the event of an appeal, the revocation of the permit shall be stayed pending review by the Board of Commissioners.

**Chapter 120**  
**GENERAL ADMINISTRATIVE PROVISIONS**

- 120.01 Purpose**
- 120.02 Application**
- 120.03 Compliance**
- 120.04 Revision Policy**
- 120.05 Interpretation**
- 120.06 Severability**
- 120.07 Coordination of Permits Required**

**120.01 Purpose.** The purpose of this Chapter is to outline the rules regarding the applicability of this Ordinance.

**120.02 Application.** This Ordinance shall apply to all land in the County outside the incorporated cities and adopted urban growth boundaries except:

- A. Land managed by agencies of the federal government.
- B. Land subject to ORS 92.325 is exempted from subdivision provisions enumerated by the referenced statute.

**120.03 Compliance.** Except as this Ordinance provides, no person shall:

- A. Locate, erect, construct, or alter the use of a building or other structure;
- B. Subdivide, partition, alter property boundaries, or use land;
- C. Create a road, street, or private easement for the purpose of partitioning an area or tract of land;
- D. Present an instrument dedicating land to public use;
- E. Dispose of, transfer, sell, agree, offer or negotiate to sell any lot in any subdivision or minor or major partition.

**120.04 Revision Policy.** This Ordinance shall be reviewed and, as necessary, revised to keep consistent with legislative change and the changing needs and desires of the citizens of Baker County.

**120.05 Interpretation.** Where the conditions imposed by a provision of this Ordinance are less restrictive than comparable conditions imposed by other provisions, the more restrictive provisions shall govern.

**120.06 Severability.** The provisions of this Ordinance are severable. If any Chapter, Section, sentence, clause, or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of the Ordinance.

**120.07 Coordination of Permits Required.** The County will not knowingly issue permits or distribute services such as road maintenance beyond historical levels of maintenance to owners/occupants of housing not lawfully created, i.e., without County zoning, Department of Environmental Quality (DEQ) and/or State Building Codes Division (BCD) permits.

- A. Wells or pumping stations used solely for agricultural purposes or agricultural buildings for which a building permit is not required are exempt from the provisions of this Ordinance.
- B. No permits shall be issued by the Building Official or Sanitarian for the construction, reconstruction, alteration, or change or use of structure, or lot that does not conform to the requirements of this Ordinance.
- C. No person, firm or corporation shall connect electrical service to any construction site, or to any structure or mobile home erected, installed or altered within Baker County for which a building permit or mobile home installation permit has not been obtained.
- D. Nothing in this Ordinance shall prevent the reconnection of existing electrical services, which have been temporarily disrupted.

**Chapter 125**  
**PLANNING DIRECTOR'S INTERPRETATION**

**125.01 Purpose**

**125.02 Procedure**

**125.01 Purpose.** It is anticipated that some terms or phrases within the Baker County Zoning Ordinance may be ambiguous and, therefore, subject to two or more reasonable meanings. Since it is not possible to identify or remove all ambiguities in the Ordinance, this process is established for resolving these ambiguities in advance of or concurrently with the application for a particular permit or other action.

**125.02 Procedure**

- A. Requests. A request for a Planning Director's Interpretation shall be made in writing to the Planning Director. The Planning Director may develop guidelines for the application process.
- B. Decision to issue. The Planning Director shall have the authority to consider the request for an Interpretation. The Planning Director shall respond within 14 days after the request is made, as to whether or not the Planning Director will issue the requested Interpretation.
- C. Planning Director may decline. The Planning Director is authorized to issue or decline to issue a requested Interpretation. The Planning Director's decision to issue or decline to issue an Interpretation is final when such decision is mailed to the party requesting the Interpretation and such decision is not subject to any further local appeal.
- D. Written Interpretation mailed. If the Planning Director decides to issue an Interpretation as requested, it shall be issued in writing and shall be mailed to the person requesting the Interpretation and any other person that has specifically requested a copy of such Interpretation.
- E. Appeal to the Planning Commission. The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the Planning Director's Interpretation to the Planning Commission within 12 days after the Interpretation was mailed to the applicant. The appeal may be initiated by filing a Notice of Appeal with the Planning Director, pursuant to Section 115.06(G).
- F. Appeal procedure. The Planning Commission shall hear all appeals of a Planning Director's Interpretation as a Type III action, pursuant to Section 115.07, except that notice of the hearing shall be provided only to the applicant, any other party who has filed a notice of appeal, and any other person who has requested notice.
- G. Final decision. The decision of the Planning Commission on an appeal of a Planning Director's Interpretation shall be final and effective when notice of the decision is mailed to the applicant.
- H. Appeal to the Board of Commissioners. The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the Planning Commission's decision within 12 days after the decision was mailed to the applicant. The appeal may be initiated by filing a Notice of Appeal with the Planning Director, pursuant to Section 115.06(G)(2)(a)(2).

- I. Interpretations on file. The Planning Director shall keep on file in the Planning Department a record of all Planning Director's Interpretations. When appropriate, these Interpretations shall be codified into the Ordinance by means of a Type IV procedure, as governed by Chapter 115.

**Chapter 130**  
**ZONING ADMINISTRATION**

- 130.01 Purpose**
- 130.02 Classification of Zones**
- 130.03 Location of Zones**
- 130.04 Zoning Map**
- 130.05 Zone Boundaries**

**130.01 Purpose.** The purpose of this Chapter is to establish the rules by which base and overlay zoning designations are assigned to all properties in unincorporated Baker County.

**130.02 Classification of Zones**

A. Base Zones. Table 130-1 below establishes the following base zoning designations:

<b>TABLE 130-1 - BASE ZONING DESIGNATIONS</b>	
<b><u>BASE ZONES</u></b>	<b><u>ABBREVIATION</u></b>
<b>Resource Zones:</b>	
Exclusive Farm Use	EFU
Timber-Grazing	TG
Primary Forest	PF
Mineral Extraction	ME
Surface Mining	SM
<b>Residential Zones:</b>	
Rural Residential	RR-5
Recreation Residential	RR-2
<b>Commercial Zones:</b>	
Rural Service Area	RSA
Rural Commercial	RC
Rural Industrial	RI
Tourist Commercial	TC
General Commercial	GC
Commercial Industrial	CI
<b>Industrial Zones:</b>	
Industrial	I
<b>Other:</b>	
Airport Development	AD
Sumpter Valley Management Area	SVMA
SVMA Buffer Zone	Buffer Zone
Motor Sports Limited Use Combining Zone	MSLUC
Old Mill Limited Use Combining Zone	OMLUC

B. Overlay Zones. Table 130-2 below establishes the following overlay zoning designations:

<b>TABLE 130-2 - OVERLAY ZONING DESIGNATIONS</b>	
<b><u>OVERLAY ZONES</u></b>	<b><u>ABBREVIATION</u></b>
Airport Overlay Zone	AOZ

Big Game Habitat Overlay Zone	BGHO
Flood Damage Prevention	FDP
Sensitive Bird Habitat Consultation Overlay Zone	SBHCOZ
National Historic Oregon Trail Interpretive Center Overlay Zone	NHOTICOZ
Sumpter Valley Overlay Zone	SVOZ
Wetlands Overlay Zone	WOZ
Limited Use Overlay Zone	LUOZ
Mining Activity Buffer Overlay Zone	MABOZ
Mining Impact Mitigation Overlay Zone	MIMMOZ
Tourist Commercial Limited Use Overlay Zone	TCLUOZ

**130.03 Location of Zones.** The boundaries for the zones listed above, being the most current editions, are indicated on the Baker County Zoning and Plan Map, Mineral Extraction Zone Map, Oregon Department of Fisheries and Wildlife Maps, Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), and the U.S. Department of Interior National Wetlands Inventory Maps, which are hereby adopted by reference. Where there is an inconsistency between the larger-scale assessor's maps and the smaller-scale Zoning and Plan maps, the information contained on the larger-scale maps shall prevail.

**130.04 Zoning Map.** A Zoning Map or Zoning Map Amendment adopted by Section 130.03 or Chapter 260 shall be prepared by authority of the County governing body or its designate. Such Map or Map Amendment shall be dated with the effective date of the Zoning Ordinance that adopts the Map or Map Amendment. A certified print of the adopted Map or Map Amendment shall be maintained in effect.

**130.05 Zone Boundaries.** Unless otherwise specified, zone boundaries are section lines, half or quarter section lines, subdivision lines, property lot lines, center lines of highways, roads, streets or railroad rights of way or such lines extended. Whenever possible, zone boundary lines shall not divide ownerships. If a zone boundary as shown on the Zoning Map divides a lot or parcel between two zones, the entire lot or parcel shall be deemed to be in the zone in which the greater area of the lot or parcel lies providing this adjustment involves a distance not exceeding 100 feet from the mapped zone boundary.



## **Chapter 140 ENFORCEMENT**

- 140.01 Purpose**
- 140.02 Abatement and Penalty**
- 140.03 Notice of Violation**
- 140.04 Repeal of Ordinances as Affecting Existing Liabilities**

**140.01 Purpose.** The purpose of this Chapter is to explain the procedure for enforcing this Ordinance and notifying parties of violations, and the continuing applicability of prior violation notices.

**140.02 Abatement and Penalty.** Violation of any provision of this Ordinance or of any Amendment of this Ordinance is enforceable under either of the following options at the discretion of Baker County.

- A. Enforcement through civil proceedings under provisions of local Ordinance enforcement which shall provide for a fine of not more than \$500 per violation. Every day in which the location, erection, alteration or use of a building or structure or the subdivision, partitioning, or other use of land, is in violation of this Ordinance constitutes a separate violation.
- B. Enforcement through statutory authority under ORS 215.185 or ORS 215.190: Penalty under statutory enforcement shall be determined by the appropriate statutory authority.

**140.03 Notice of Violation.** Notice of a violation of a provision of this Ordinance shall be in the form of a certified, return-receipt letter from the County, or hand delivered by the Baker County Sheriff's office. Such letter shall identify the property upon which the violation is located, and shall include a description of the violation and an explanation of the action necessary to gain compliance with the Ordinance. This letter shall be delivered to the last known owner of record of the subject parcel according to the tax account information of the Baker County Assessor.

The owner shall be given 10 days from the date of receipt of the notice to contact Baker County concerning remedy of the infraction. If there is no such contact, violation will commence on the 11th day after the receipt of notification. If contact is made within the 10-day period after receipt of notification, the Planning Director may establish a date for remedy of the infraction. If the infraction is not remedied by the date established, violation will commence on the following day.

**140.04 Repeal of Ordinances as Affecting Existing Liabilities.** The repeal of any Ordinance by this Ordinance shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under an Ordinance repealed by this Ordinance unless a provision of this Ordinance shall so expressly provide; and such Ordinance repealed shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability, and for the purpose of a person who violated the repealed Ordinance or a part thereof prior to the effective date of this Ordinance.

## Chapter 150 DEFINITIONS

- 150.01 Purpose**
- 150.02 Rules of Construction**
- 150.03 Definitions**

**150.01 Purpose.** The purpose of this Chapter is to define words used in this Ordinance.

**150.02 Rules of Construction.** The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Ordinance:

- A. Tense: Words used in the present tense shall include the future tense.
- B. Number: Words used in the singular shall include the plural and words used in the plural shall include the singular.
- C. Shall and May: The word “*shall*” is mandatory. The word “*may*” is permissive.
- D. Gender: The masculine shall include the feminine and neuter.
- E. Headings: In the event there is any conflict or inconsistency between the headings of an Article, Chapter, Section or paragraph of this Ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of the context.
- F. The word “*County*” shall mean Baker County, Oregon. The words “*Board of Commissioners*” and “*Board*” shall mean the Baker County Board of Commissioners. The words “*Planning Commission*” and “*Commission*” shall mean the Baker County Planning Commission, duly appointed by the Baker County Board of Commissioners.

**150.03 Definitions.** As used in this Ordinance the following words and phrases shall mean:

**Abandonment (of wireless communication facility):** Wireless communication facilities will be considered abandoned when there has not been a carrier licensed or recognized by the Federal Communications Commission operating on the facility for a period of one year (365 consecutive days).

**Abutting:** Contiguous or adjoining. It shall include the terms adjacent, adjoining and contiguous.

**Abutting properties:** Properties directly across any private, public, or county road provided the functional classification of the road is below that of a “*collector*.”

**Accepted farming practice:** A mode of operation common to farms and ranches of a similar nature, necessary for the operation of such farms and ranches with the intent to obtain a profit in money, and customarily utilized in conjunction with farm use.

**Access:** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

**Access easement:** An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a parcel across intervening property under separate ownership from the parcel being provided access.

**Accessory space:** Any building space not constructed to residential standards under the *State of Oregon One and Two Family Dwelling Code* and/or the *State of Oregon Specialty Codes* that is used for the home occupation, including, but not limited to, an attached garage, detached garage or pole building. Accessory space does not include manufactured dwellings, residential trailers or recreational vehicles.

**Accessory use or accessory structure:** A use of land, building or other structure that is incidental, appropriate, and subordinate to the main use of such land, building, or other structure and is located on the same lot or parcel as the main use.

**Adjustment of a property line:** The relocation or elimination of a common property line between abutting properties where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance. [Ref. ORS 92.010 (11, 12)]

**Adverse impact:** Negative effect of a development that can be measured (e.g., noise, air, pollution, vibration, traffic, dust, etc.).

**Affected persons:** Includes those owners of record of real property located within a minimum distance of 250 feet from the requested land use action.

**Agent:** Individual or party given written authorization to act on behalf of a landowner(s).

**Aggregate mining:** The removal, in any calendar year of sand, gravel, or broken stone beyond 1,000 cubic yards or affects more than one-acre of land.

**Aggregate processing:** Includes, but is not limited to, crushing, washing, milling and screening as well as the batching and blending of mineral aggregate into asphalt and Portland cement located within the operating permit area.

**Agricultural building:** A structure which is incidental, appurtenant or subordinate to the main use of the property and which has a relatively low investment, including, but not limited to, haysheds, loafing barns or animal shelters.

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

**Agricultural use:** See Farm use.

**Argument:** means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. “*Argument*” does not include facts.

**Airport imaginary surfaces:** Imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface.

**Alley:** A street or right-of-way which affords only a secondary means of access to property.

**Antenna:** A transmitting or receiving device used in communications that radiates or captures electromagnetic waves, including, but not limited to, directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whips.

**Apartment house or multiple family dwelling:** Any building or portion thereof which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in said building, and shall include flats and apartments. Apartment shall mean a dwelling unit.

**Appeal:** In relation to floodplain management, a request for a review of the interpretation of any provision of this ordinance.

**Arable land:** Land in a tract that is predominantly cultivated or, if not currently cultivated, predominately comprised of *arable soils*.

**Arable soils:** Soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence on the record of a local land use application, not including *high-value farmland* soils as defined in ORS 195.300(10).

**Area of shallow flooding:** A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard:** The land in the flood plain within a community subject to a one-percent or greater chance of flooding in any given year. Designation on FEMA Flood Insurance Rate Maps always includes the letters A or V. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

**Arterial:** Carries high volumes of traffic on a continuous network with no stub routes, but provides very little direct land access.

**Automobile and trailer sales area:** An open area other than a street used for the display, sale or rental of new or used automobiles or trailers and where no repair work is done except minor, incidental repair of automobiles or trailers to be displayed, sold or rented on the premises.

**Automobile wrecking yard or junkyard:** Any establishment or place of doing business that is maintained, operated or used for storage, keeping, buying or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, wrecked, scrapped, or ruined motor vehicles, or motor vehicle parts, iron, steel, or other old or scrap ferrous or non-ferrous material, metal or non-metal material; and the term includes automobile graveyards and scrap metal processing facilities.

**Base flood:** The flood having a one-percent chance of being equaled or exceeded in any given year.

**Base flood elevation (BFE):** The elevation to which floodwater is anticipated to rise during the base flood.

**Basement:** A story partly underground. A basement shall be counted a story in building height measurement when the floor level directly above is more than six feet above the average level of the adjoining ground. In relation to floodplain management, a basement includes any area of the building having its flood subgrade (below ground level) on all sides.

**Below-grade crawlspace:** An enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

**Bicycle:** A vehicle having two tandem wheels, a minimum of 14 inches (35 centimeters) in diameter, propelled solely by human power, upon which any person or persons may ride. A three-wheeled adult tricycle is also considered a bicycle.

**Bikeway:** A bikeway is created when a road has the appropriate design treatment for bicyclists, based on motor vehicle traffic volumes and speeds. The following facilities are considered bikeways: shared roadway, shoulder bikeway, bike lane or bicycle boulevard. Another type of bikeway facility is separated from the roadway and is called a multi-use path.

**Block:** An area of land whose boundaries are defined by public or private streets, excluding alleys.

**Boarding house:** A dwelling unit which provides an individual, or any number of persons related or bearing a generic character of a family unit living together where meals or lodging may also be provided for more than four additional persons, excluding servants.

**Building:** A structure built for the support, shelter or enclosure of persons, animals, goods, chattel, or property of any kind. See also "structure"

**Building setback line:** A line beyond which a building cannot be constructed. The building setback line is referenced by and measured from the property line or from the center of the road or street right-of-way where applicable.

**Building sites:** One or more lots or parcels of land grouped together to be used for construction of a residence or other structure as permitted in the zone in which the property is located.

**Cabin:** A building that does not meet the definition of a dwelling, measures  $\pm 1000$  square feet or less, and is used for recreational and non-commercial overnight lodging for a period of not more than 180 days per calendar year.

**Camp, tourist or trailer park:** See Campground or RV/Recreational Vehicle Park.

**Campground:** An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A camping site within a campground may be occupied by a tent, travel trailer, yurt or recreational vehicle. Campgrounds authorized on land zoned for farm and/or forest uses shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas

stations, and temporary overnight use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period. See also RV/Recreational Vehicle Park.

**Capacity:** The maximum rate of flow at which persons or vehicles can be reasonably expected to traverse a point or uniform segment of a lane or roadway during a specified time period under prevailing roadway, traffic, and control conditions, usually expressed as vehicles per hour or persons per hour.

**City road or street:** A public way, right of way, or traveled way in whole or in part that is subject to the control of an incorporated city or town.

**Co-location:** The use of a single support structure by more than one wireless communications provider.

**Collector roads:** Provides both mobility and land access, gathers trips from localized areas and feeds them onto the arterial network.

**Commercial:** The holding of goods, chattel or other commodities of any kind for sale, rent or lease or for storage for a fee on a regular basis by any method or the offering or making available on a regular basis services for a fee or for sale or any combination of the foregoing.

**Commercial agricultural enterprise:** Farm operations that contribute in a substantial way to the area's existing agricultural economy, and help maintain agricultural processors and established farm markets. When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered.

**Commercial dwelling:** A dwelling designed or intended to serve or accommodate one or more transient or traveling persons such as hotels, motels, vacation lodges and others of a similar nature.

**Commercial Solar Power Generation Facilities:** A *solar power generation facility* which produces power to be used to power commercial developments, uses, structures or businesses located on the same parcel or tract as the *solar power generation facility*. Net-metering is permitted with *commercial solar power generation facilities* if it does not exceed 50% of the average expected annual energy production.

**Commercial stand of timber:** A parcel predominantly stocked and capable of producing 20 cubic feet per acre per year or greater, or as designated by the Oregon Department of Forestry.

**Commercial tree species:** Trees recognized under rules adopted under ORS 527.715 for commercial production.

**Commercial Wind Power Generation Facility:** *Commercial Wind Power Generation Facilities* consist of one or more *wind turbine generators* and their related or supporting facilities, operated as a single *wind power generation facility* that has a combined generating capacity of 1 MW or greater of electric power from wind and are constructed, maintained, or operated as a contiguous group of devices. Related and supporting devices also include all roads exclusively used for the *wind power generation facility* operation and any other structure that takes land out of production.

**Computation of time:** The time within which an act is to be done is computed by excluding the first day and including the last day, unless the last day falls upon any legal holiday, Saturday or Sunday, in which case the last day is also excluded, and the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday.

**Conditional use:** A use which requires a Conditional Use Permit (CUP).

**Consult:** to ask the advice or opinion of.

**Contiguous:** Lots, parcels or lots and parcels that have a common boundary more than a common corner. Contiguous includes, but is not limited to, lots, parcels or lots and parcels separated only by an alley, street or other right-of-way. Contiguous does not include lots, parcels, or lots and parcels in Baker County separated by Interstate 84 or the Pacific Rail Corridor.

**Corner radius:** The radius of a street corner, as measured around the curb or edge of pavement.

**County road:** A public way, right of way, or traveled way which in whole or in part is subject to the control of the County and has been designated by the County as a part of the County road system for maintenance or repair.

**Critical facility:** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.

**Crosswalk:** Portion of a roadway designated for pedestrian crossing, marked or unmarked. Unmarked crosswalks are the natural extension of the shoulder, curb line or sidewalk.

**Date of creation and existence:** When a lot, parcel or tract is reconfigured, pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

**Decision Making Body:** The body that presides either over an initial Type III hearing or an appeal of a Type II or Type III decision. Depending on the type of hearing, the Decision Making Body may be the Planning Commission, Hearings Officer or Board of Commissioners.

**Declarant:** The person who causes a subdivision or partition plat to be prepared. The declarant is the fee owner of the land subdivided or partitioned.

**Declaration:** The instrument describing why the subdivision or partition plat was created.

**Dedication:** A conveyance of right-of-way to the county.

**Development:** All improvements on a parcel or tract, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes. In relation to floodplain management, any made-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling or storage of equipment or materials.

**Disposal site:** Land used for the disposal or handling of solid waste, including but not limited to dumps, sanitary landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning services, salvage sites, incinerators for solid waste delivered by the public, or by a solid waste collection service, and composting plants; the term does not include a facility subject to the water pollution permit requirement of ORS 468B.050 or a landfill site which is used by the owner or person in

control of the premises to dispose of soil, rock, concrete or other similar materials, unless the site is used by the public, either directly or through a solid waste collection service.

**Distribution use:** Land used to serve industry in the storage, transfer and distribution of goods and materials between manufacturer and consumer.

**Dredge line:** refers to that line of demarcation between soils affected by dredge mining operations and soils unaffected by such operations.

**Driveway:** Areas that provide vehicular access to a site, except for public and private streets. A driveway begins at the property line and extends into the site. Driveways do not include parking, maneuvering, or circulation areas in parking space areas.

**Dual-use development:** Developing the same area of land for both a photovoltaic solar power generation facility and for farm use.

**Duplex:** See Dwelling, two-family.

**Dwelling:** Any building or portion thereof which is not a lodging house or hotel, which contains one or more dwelling units intended or designed to be built, used, rented, leased, let or hired out or sold to be occupied or which can be occupied for living purposes.

**Dwelling, lawfully established:** A structure intended for human occupancy having intact exterior walls and roof structure, a heating system, interior wiring for interior lights, and indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system, which for replacement purposes;

1. If established prior to final acknowledgment of the County's Comprehensive Land Use Plan on April 24, 1986;
  - a. The dwelling was established prior to February 1, 1974; or
  - b. The dwelling received documented zoning approval from the County; or
  - c. Where no documented evidence of zoning approval from the County is provided, the County provides notice and a public hearing in accordance with Chapter 115 of this Ordinance, and based upon testimony submitted in the hearing the Planning Commission determines that:
    - i. The County has no record or documentation that indicates the dwelling was lawfully established, and
    - ii. Use of the dwelling has not created conflicts with farming or forest practices on adjacent or nearby lands zoned for farm or forest use.
2. If established after final acknowledgement of the County's Comprehensive Land Use Plan on April 24, 1986, the dwelling received documented zoning approval.
3. The date of establishment for purposes of 1) and 2) above shall be determined by the date the dwelling received documented zoning approval or where no documented zoning approval is provided, the earliest date indicated by County Assessor's records that the dwelling existed, or as otherwise determined by the County Assessor.
4. Is not a travel trailer or recreational vehicle as defined in Chapter 150.

**Dwelling, single family:** A detached building containing one dwelling unit.



**Dwelling, two family (duplex):** A detached building containing two dwelling units designed for occupancy by two families.

**Dwelling, multi-family/apartment house:** A building containing three or more dwelling units.

**Dwelling, farm:** Any dwelling customarily provided in conjunction with farm use, to house the primary farm operator and their family. Placement of farm dwellings shall be in conformance with ORS 215.283(1)(d) and (e).

**Dwelling, accessory farm:** A dwelling located on the same lot or parcel as the dwelling of the farm operator, and occupied by an employee whose assistance in the management and operation of the farm use is or will be required by the farm operator. Placement of an accessory farm dwelling shall be in conformance with ORS 215.283(1)(e).

**Dwelling, relative farm help:** A dwelling located on the same lot or parcel as the dwelling of a farm operator, and occupied by a relative, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or farm operator's spouse, and whose assistance in the management and operation of the farm is or will be required by the farm operator.

**Dwelling, non-farm:** Any dwelling not provided in conjunction with farm use, or any dwelling located on a non-farm parcel or lot. Placement of non-farm dwellings shall be in conformance with ORS 215.284 and ORS 215.284(7).

**Dwelling unit:** One or more rooms designed for occupancy by one family and not having more than one cooking facility. A dwelling unit must have intact exterior walls and roof structure; indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system; interior wiring for interior lights; and a heating system.

**Easement:** A grant of the right to use a parcel or a portion thereof for specific purposes where ownership of the land or portion thereof is not transferred.

**Effective date:** the date on which a particular action or decision may be undertaken or otherwise implemented. For decisions that are subject to review or appeal by any commission, board, or officer, the effective date will normally be the day after the appeal period expires. If an appeal is dismissed after the appeal period has expired, the decision that was the subject of the appeal becomes effective at the moment of dismissal. Final decisions of the County (those that are not subject to any further appeal or review within the County) are normally effective when they become final.

**Elevated building:** In relation to floodplain management and insurance, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

**Employee (for home occupations):** Any on-site person, whether they work full-time or part-time in the home occupation business, including, but not limited to, the operator, partners, assistants, and any other persons or family members participating in the operation of the business.

**Employee (for agriculture):** Any onsite person, whether they work full-time or part-time, who will be principally engaged in the farm use of the land, including, but not limited to planting, harvesting, marketing or caring for livestock.

**Equipment (utility) shelter:** A structure that houses power lines, cable, connectors and other equipment ancillary to the transmission and reception of communications.

**Essential public communication services:** Police, fire and other emergency communications networks.

**Evidence:** means facts, documents, data, or other information offered to demonstrate compliance or non-compliance with the standards believed by the proponent to be relevant to the decision.

**Exactions:** requirements a local government places on a developer or property owners to dedicate land or construct or pay for all or a portion of the costs of public improvements needed for public facilities as a condition of development approval.

**Existing wireless communication facility:** A wireless communications tower, or other supporting structure, antenna and equipment structures that received land use approval prior to date of adoption.

**Exploration:** All activities conducted on or beneath the surface of the earth for the purpose of determining presence, location, extent, grade or economic viability of a deposit. "*Exploration*" does not include prospecting or chemical processing of minerals. See ORS 517 for further explanation.

**External impacts:** Uses which create smoke, odor, vibration, noise, dust or other conditions which would have an impact on adjacent uses.

**Family:** An individual or two or more persons related by blood or marriage, or domestic partners, or a group of not more than five persons, excluding servants, who need not be related by blood or marriage, living together in a dwelling unit.

**Farm operator:** A person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing. A farm operator plays the predominant role in the management and farm use of the farm.

**Farm parcel:** See Parcel, farm.

**Farm or Ranch Operation:** All lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in this Section.

**Farm Processing Facility:** A facility for (1) processing farm crops, including the production of biofuel as defined in ORS 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry or poultry products from the farm operation containing the facility and consistent with the licensing exemption for a person under ORS 603.038 (2). *See also "processing area."*

**Farm use:** The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. Farm use includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. Farm use also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. Farm use also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. Farm use includes the

on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. Farm use does not include the use of land subject to the provisions of ORS 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203 or land described in ORS 321.267 (3) or 321.824 (3).

**Farming practices (accepted):** A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

**Feeding station:** An area, public or private, the primary use of which is to feed big game.

**Feeding station (emergency):** Feeding stations limited to those not in use beyond two feeding seasons. No permanent structures are allowed at emergency feeding stations.

**Feedlot or confined feeding or holding operation:** The concentrated or confined feeding or holding of animals or poultry where the surface has been prepared with concrete, rock or vitreous material to support animals in wet weather or where the concentration of animals has destroyed the vegetative cover and the natural infiltrative capacity of the soil.

**Fence, sight obscuring:** A fence or planting arranged in such a way as to effectively prevent vision of objects which are screened by it.

**Final for Purposes of Appeal:** means the point at which an action or decision by any local decision-making body constitutes the final action or decision by that particular body. Because certain actions or decisions may be appealed or reviewed by other decision-making bodies within the County, an action or decision may be "*final for purposes of appeal*," without being the "*final*" action or decision of the County.

**Flag lot:** A lot or parcel which has access to a road, street, or easement, by means of a narrow strip of lot or easement.

**Flood or flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland (or tidal) waters.
2. The unusual and rapid accumulation of runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
4. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**Flood elevation study:** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**Flood hazard area:** See Area of special flood hazard.

**Flood Insurance Rate Map (FIRM):** The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study (FIS):** See "Flood elevation study".

**Flood-proofing:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

**Floodplain or flood prone area:** Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

**Floodplain administrator:** The community official designated by title to administer and enforce the floodplain management regulations.

**Floodplain management:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain management regulations:** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

**Floodway fringe:** The area between the floodway and the boundary of the base flood which can be diked without increasing upstream flood levels by more than one foot in height.

**Forest land:** As defined by Oregon Statewide Planning Goal 4, are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:

1. Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations and practices; and
2. Other forested lands that maintain soil, air, water and fish and wildlife resources.

**Forest area:** Land, which is under the cover of natural or planted trees of at least five meters ( $\pm 16.4$  feet), whether productive or not. This excludes trees in gardens, urban parks, or tree stands in agricultural production systems.

**Forest operation:** Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).

**Front building line:** The property line separating a lot or parcel from a public road or street other than an alley; in the case of a corner lot or parcel, either of two such lines may be designated the front building line, providing the other has a length that is one-half of the minimum allowable under this Ordinance; or

in the case of a reverse lot or parcel (i.e., one abutting two such public roads or streets other than a corner lot or parcel), either of two such lines may be designated the front building line, providing the other has a length that is one-half of the minimum allowable under this Ordinance.

**Frontage:** The dimension of a property line abutting a public or private street.

**Frontage street or road:** A minor street which parallels an arterial street in order to provide access to abutting properties and minimize direct access onto the arterial.

**Functionally dependent use:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

**Future development area:** High priority areas for development at some future time if a needs Exception can be justified at that time.

**Gas:** All natural gas and all other fluid hydrocarbons not defined as oil in this Section, including condensation originally in the gaseous phase in the reservoir.

**Geothermal resources:** The natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth, exclusive of helium or of oil, hydrocarbon gas or other hydrocarbon substance.

**Golf course:** An area of land with highly maintained natural turf laid out for the game of golf with a series of 9 or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. For the purposes of this Ordinance, a golf course means a 9 or 18 hole regulation golf course or a combination 9 and 18 hole regulation golf course consistent with the following:

1. A regulation 18-hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.
2. A regulation 9-hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes.
3. A non-regulation golf course is a golf course or golf course-like development that does not meet the definition of golf course in this Ordinance, including but not limited to executive golf courses, Par 3 golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.

**Golf course accessory use:** A facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms, lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing.

**Grade (ground level):** The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

**Gravel operations:** refers to the use of land for the recovery of small stones or rocks and cobbles, or a mixture of such with sand. The term shall include the crushing, sorting, screening and asphaltic compounding normally associated with such operations, whether for immediate removal or stockpiling: provided, however, that "*gravel operations*" do not include the storing or stockpiling of asphaltic compounds or compounded materials or any wastes or residues thereof on a continuing basis.

**Gravel site:** The use of the land for the purpose of recovery of water-deposited, non-metallic materials.

**Grazing:** The use of land for pasture of horses, cattle, sheep, goats, or other domestic animals.

**Guest:** A person who purchases an activity package which includes ranch and recreational activities and which may include meals.

**Hazardous material:** The Oregon Department of Environmental Quality defines hazardous materials to include any of the following:

1. Hazardous waste as defined in ORS 466.005;
2. Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy Facility Siting Council under ORS 469.605 and radioactive substances defined in ORS 453.005;
3. Communicable disease agents as regulated by the Health Division under ORS Chapter 431 and 433.010 to 433.045 and 433.106 to 433.990;
4. Hazardous substances designated by the United States Environmental Protection Agency (EPA) under Section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended;
5. Substances listed by the United States EPA in Section 40 of the Code of Federal Regulations, Part 302 – Table 302.4 (list of Hazardous Substances and Reportable Quantities) and amendments;
6. Material regulated as a Chemical Agent under ORS 465.550;
7. Material used as a weapon of mass destruction, or biological weapon;
8. Pesticide residue;
9. Dry cleaning solvent as defined by ORS 465.200(9).

**Height of building:** The vertical distance from the grade to highest point of the building or structure.

**High-value farmland:** Land in a tract composed predominantly of soils that are:

1. Irrigated and classified prime, unique, Class I or Class II; or
2. Not irrigated and classified prime, unique, Class I or Class II.
3. Tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. Specified perennials include perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards, but not including seed crops, hay, pasture or alfalfa.

Soil classes, soil ratings or other soil designations used in, or made pursuant to, this definition are those of the Natural Resources Conservation Service in its most recent publication for that class, rating or designation before November 4, 1993. The soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner submits a statement of agreement from the Natural Resources Conservation Service that the soil class, soil rating or other soil designation should be adjusted

based on new information; or submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed and submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis in the report to be soundly and scientifically based.

**Highest adjacent grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic property:** Real property that is currently listed in the National Register of Historic Places.

**Historic structure:** Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

**Home occupation:** An occupation or business activity which results in a product or service; is conducted, in whole or in part, in a dwelling and/or an accessory building normally associated with primary uses allowed in the underlying zoning district; is conducted by at least one family member occupying the dwelling; and is clearly subordinate to the residential use of the subject property. Home occupations do not include garage sales, yard sales, holiday bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services unless such sales and/or parties are held more than 6 times in a calendar year or operate in excess of 24 total days in a calendar year.

**Hotel:** Any building containing six or more guest rooms intended or designed to be used or which are used, rented, or hired out to be occupied for sleeping purposes.

**Hunting and fishing preserve:** Area wherein the hunting of privately owned game birds and angling for privately owned game fish is permitted by state law.

**Incidental use:** The use of no more than 25% of the floor area of a structure or 500 square feet, whichever is less.

**Industrial:** The making of commodities by manufacturing, assembling, fabricating, generating or compounding by manual labor or machinery; the term includes physical or chemical processes or combinations thereof.

**Irrigated:** Watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is irrigated if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider.

**Junkyard:** See Wrecking yard.

**Kennel:** Any lot or building maintained for the purpose of boarding, breeding or raising six or more dogs or cats over the age of eight months for personal use, for a fee or for sale.

**Key Observation Points:** Vantage points selected to provide a representative geographic distribution of area likely to be within the view shed of renewable energy development and include, but are not limited to, open spaces, scenic, historic, cultural and archaeological resources as identified and inventoried in the Comprehensive Plan, landmarks, scenic byways, scenic corridors, and any other site, location, area or development deemed appropriate by the Planning Commission.

**Land development:** The subdividing or partitioning of land for any purpose into parcels, or the creation of units or parcels for the purpose of sale and includes the creation of a condominium, a planned unit development, or a division of a similar nature. The term also includes the intent for disposition of any land whether contiguous or not, including any land divided, lots, parcels, units, or interests that are offered as part of a common promotional plan advertising a disposition where the land development is offered for disposition by a single developer or a group of developers acting in concert. If the land is contiguous or is known, designated or advertised as a common unit or by a common name, the land shall be presumed, without regard to the number of lots covered by each individual offering, to be offered for disposition as a part of a common promotional plan.

**Land use decision:** A land use decision includes a final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

1. The Statewide Planning goals;
2. A comprehensive plan provision;
3. A land use regulation;
4. A new land use regulation.

A land use decision does not include a decision of a local government:

- That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;
- That approves or denies a building permit issued under clear and objective land use standards;
- That is a limited land use decision;
- That determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations;
- That is an expedited land use decision as described in ORS 197.360;
- To authorize an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period;
- Does not include a decision by a school district to close a school.

**Land use plan or comprehensive land use plan:** Maps and the interpretations thereof, and written goals and policies related to land use, transportation, parks, housing, urbanization, etc., which have been adopted as elements of the County Land Use Plan.



**Land use regulations:** Means any county zoning ordinance, land division ordinance or similar general ordinance establishing standards for implementing a comprehensive land use plan.

**Letter of Map Change (LOMC):** Means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs:

1. **Conditional Letter of Map Amendment (CLOMA):** A CLOMA is FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base (1-percent-annual-chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.
2. **Conditional Letter of Map Revision (CLOMR):** A CLOMR is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.
3. **Conditional Letter of Map Revision based on Fill (CLOMR-F):** A CLOMR-F is FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.
4. **Letter of Map Amendment (LOMA):** An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e., has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.
5. **Letter of Map Revision (LOMR):** A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.
6. **Letter of Map Revision based on Fill (LOMR-F):** A LOMR-F is FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.
7. **PMR:** A PMR is FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

**Level of service:** For transportation, a qualitative measure describing operational conditions within a traffic stream, generally described in terms of such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety. At intersections, level of service is measured in terms of average delay and correlated to grades from LOS A which indicated little delay, to LOS F which indicates significant delay.

**Light industry:** Uses related to manufacturing, compounding, assembling, fabricating, repairing, packaging or treatment industries with limited external impacts.

**Livability:** The sum of factors which add up to a community's quality of life, limited to the built and natural environments, economic prosperity, social stability and equity, educational opportunities, protection of cultural and heritage assets, and recreation possibilities which collectively contribute to the sustainability of human living.

**Livestock sales yard:** An enclosure or structure designed or used for holding livestock for purpose of sale or transfer by auction, consignment or other means.

**Loading space:** An off-street space within a building or on the same lot with a building for temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials and which space has access to the street.

**Local access road:** A road that is not a county road, state highway or federal road that is regulated by ORS 368.031, meaning the road is subject to the exercise of jurisdiction by a county governing body in the same manner as a county road, except:

1. A county and its officers, employees or agents are not liable for failure to improve the local access road or keep it in repair.
2. A county governing body shall spend county moneys on the local access road only if it determines that the work is an emergency or if:
3. The county road official recommends the expenditure;
4. The public use of the road justifies the expenditure proposed; and
5. The county governing body enacts an order or resolution authorizing the work and designating the work to be either a single project or a continuing program.

**Local road:** Low volume roadways that provide direct land access but are not designed to serve through traffic needs.

**Lodging house or rooming house:** Any building or portion thereof containing not more than 5 guest rooms which are used by not more than 5 guests where rent is paid in money, goods, labor or otherwise. Board may or may not be included.

**Lot:** A unit of land that is created by a subdivision of land, and is intended as a unit for disposition, transfer of ownership or interest or for development.

**Lot area:** The total horizontal area within the lot lines of a lot. Land dedicated for roads within lot lines shall be included in total acreage.

**Lot, corner:** A lot abutting on two intersecting streets other than an alley.

**Lot, interior:** A lot other than a corner lot.

**Lot, reverse corner:** A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.

**Lot, through:** A lot having frontage on two parallel or approximately parallel streets other than alleys.

**Lot width:** The average horizontal distance between the side lot lines ordinarily measured parallel to the front lines.

**Lot line:** The boundary which describes the extent of a particular parcel of land as described in the leasing document or deed. The term "*Lot Line*" shall be interchangeable with the terms "*Lease Line*" or "*Property Line*".

**Lot line, front:** The property line separating a lot or parcel from a public road or street other than an alley; in the case of a corner lot or parcel, either of two such lines may be designated the front building line, providing the other has a length that is one-half of the minimum allowable under this Ordinance; or in the case of a reverse lot or parcel (i.e., one abutting two such public roads or streets other than a corner lot or parcel), either of two such lines may be designated the front building line, providing the other has a length that is one-half of the minimum allowable under this Ordinance.

**Lot line, rear:** The lot line which is opposite and most distant from the front lot line. In the case of an irregular triangular or other shaped lot, a line 10 feet in length within the lot, parallel to and at a maximum distance from the front lot line.

**Lot line, side:** A property line that is not the front or rear property line.

**Lot line adjustment:** See Property line adjustment.

**Lot of record:** A lot which has been recorded in the County Clerk's office and meets ORS 215.705 lot-of-record requirements.

**Lowest floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

**Major modification:** See Modification.

**Major partition:** See Partition.

**Manufactured dwelling or mobile home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home".

**Manufactured or mobile home park or subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale which are defined as non-farm dwellings. In relation to floodplain management, a parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

**Map:** A final diagram, a drawing representing a subdivision or partition.

**Mean sea level:** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

**Mine:** Mine includes all mineral bearing properties of whatever kind and character, whether underground, quarry, pit, well, spring or other source from which any mineral substance is obtained.

**Mineral:** Soil, coal, clay, stone, sand, gravel, metallic ore and any other solid material or substance excavated for commercial, industrial or construction use from natural deposits situated within or upon lands in this state (ORS 517-750 (7)).

**Mineral processing:** Includes, but is not limited to, crushing, washing, milling and screening of minerals, as well as the batching and blending of mineral aggregate into asphalt and Portland cement located within the operating permit area (ORS 517750 (11)).

**Mining:** refers to the extraction of organic or inorganic ores or minerals from the earth in gravel or quarried materials.

**Mining site:** The use of land for the purpose of extracting organic or inorganic ores or minerals from the earth including gravel or quarrying substances or materials.

**Minor modification:** See Modification.

**Minor arterial:** Provides mobility between smaller cities and towns and other statewide traffic generators, such as resorts, that are not served by principal arterials.

**Minor partition:** See Partition.

**Mitigation:** To avoid, rectify, repair, or compensate for negative impacts which result from other actions (e.g., Improvements to a street may be required to mitigate for transportation impacts resulting from development).

**Mobile home:** See Manufactured or mobile home.

**Mobile home park:** See Manufactured or mobile home park or subdivision.

**Model aircraft:** a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

**Modification:** Changes to approved land use decisions, of which there are two types:

1. Minor Modification: a change which:
  - a. When in reference to subdivisions, partitions, and property line adjustments:
    - i. Does not increase the number of lots or parcels created by the subdivision or partition;
    - ii. Does not enlarge the boundaries of subdivided or partitioned area;
    - iii. Does not change the general location or amount of land devoted to a specific land use; or
    - iv. Includes only minor revisions of the established lines, location of buildings, proposed public or private streets, pedestrian ways, utility easements, parks or other public open spaces.
  - b. When in reference to all other land use decisions:
    - i. Does not result in a change in the land use; and

- ii. Does not involve an increase in the previously-approved conditional use activity by more than 20%.

2. Major Modification: any change which is not a minor modification.

**Motel:** A building or group of buildings on the same lot containing guest units with separate entrances and consisting of individual sleeping quarters, detached or in connected rows with or without cooking facilities, for rental to transients.

**Motor home, camper or travel trailer:** A building or vehicle, originally designed or presently constructed, to be used as temporary dwelling or lodging place and to be readily movable from place to place over streets.

**Motor sports events:** Drag racing, snowmobile drag racing, stock car and other circle track racing, sand drag and other off-road racing, motorcycle racing, go-cart racing and radio controlled car racing and accessory facilities.

**Motor vehicle and trailer sales area:** An open area other than a street used for the display, sale or rental of new or used motor vehicles or trailers and where no repair work is done except minor, incidental repair of motor vehicles or trailers to be displayed, sold or rented on the premises.

**Multi-use path:** A path physically separated from motor vehicle traffic by an open space or barrier and either within a roadway right-of-way or within an independent right-of-way, used by bicyclists, pedestrians, joggers, skaters, and other non-motorized travelers.

**Multi-use road:** A road that services vehicle, bicycle and pedestrian traffic.

**Natural area:** Land and water that has substantially retained its natural character and land and water that, although altered in character, is important as habitat for plant, animal or marine life, for the study of its natural, historical, scientific or paleontological features or for the appreciation of its natural features.

**Natural hazard area:** An area that is subject to natural events that are known to result in death or to endanger the works of man, such as stream flooding, ground water, flash-flooding, erosions and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to a local or regional area.

**Negotiation:** Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition including, but not limited to, advertising, solicitation, and promotion of the sale of such land.

**Net-metering:** Measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator and fed back to the electric utility over the applicable billing period.

**New construction:** In relation to floodplain management, structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by Baker County and includes any subsequent improvements to such structures.

**Non-arable land:** Land in a tract that is predominantly not cultivated and predominately comprised of *non-arable soils*.

**Non-arable soils:** Soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V-VIII and no history of irrigation shall be considered non-arable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be non-arable based on substantial evidence on the record of a local land use application.

**Non-conforming structure or use:** A lawful, existing structure or use at the time this Ordinance or any Amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

**Non-farm dwelling:** See Dwelling, non-farm.

**Non-farm parcels or lots:** See Parcel, non-farm.

**Oil:** Crude petroleum oil and all other hydrocarbons, regardless of gravity, which are produced in liquid form by ordinary production methods, but does not include liquid hydrocarbons that were originally in a gaseous phase in the reservoir.

**Open space:** Consists of lands used for agricultural or forest uses and any land area that would, if preserved and continued in its present use, conserve and enhance natural or scenic resources; protect air or streams or water supply; promote conservation of soils, wetlands, beaches or marshes; conserve landscaped areas, such as public or private golf courses, that reduce air pollution and enhance the value of abutting or neighboring property; enhance the value to the public of abutting or neighboring forests, wildlife preserves, nature reservations or other open space; enhance recreation opportunities; preserve historic, geological and archeological sites; promote orderly urban development; and minimize farm and non-farm conflicts.

**Operator (mining):** Any individual, public or private corporation, political subdivision, agency, board, or department of this state, any municipality, partnership, association, firm, trust, estate of any other legal entity whatsoever that is engaged in surface mining operations.

**Operator (home occupations):** The Operator is the person who conducts the home occupation, has majority ownership interest in the business, lives full-time in a dwelling on the subject property and is responsible for strategic decisions and day-to-day operations of the business.

**Overburden:** The soil, rock and similar materials that lie above natural deposits of minerals.

**Owner:** The party or parties having the fee interest in land, except that where land is subject to a real estate sales contract, owner shall mean the contract vendee and except where land is being transferred through some other land sales instrument owner shall be the purchaser that holds security interest. For the purposes of the Lot-of-Record criteria listed in Chapter 410 and Chapter 420, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

**Parcel:** A unit of land created by a legal and recorded partition of land, or created by deed or land sales contract if there were no applicable planning, zoning or partitioning ordinances or regulations.

1. Includes a unit of land created:
  - a. by partitioning land as defined in ORS 92.010(7) and ORS 92.010(9); and

- b. in compliance with all applicable planning, zoning and partitioning ordinances, or regulations.
2. Does not include a unit of land created solely to establish a separate tax account.
3. A lot of a duly recorded subdivision or parcel of a lawfully recorded partition, as defined in ORS 92.010(3), ORS 92.010(4) and ORS 92.010(6), shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further legally divided, as provided by law.

**Parcel, farm:** The current employment of land for the primary purpose of farm use as defined under ORS 215.203(2)(a) and (b), and zoned agricultural land under OAR 660-033.

**Parcel, non-farm:** A sub-standard parcel or lot which can qualify for a non-farm dwelling under ORS 215.284(2) or (7).

**Parcel Size:** The total horizontal area within the boundary lines of a parcel, including streets, roads or access easements to other property, where the underlying fee within the right of way area occupied by the street, road or access easement remains with the parcel.

**Parking lot:** Any area used for standing and maneuvering of three or more vehicles or requiring three or more parking spaces.

**Parking space:** A clear off-street area, for the temporary parking or storage of one automobile, having an all-weather surface width not less than 8.5 feet, length not less than 22 feet, and being not less than 8.5 feet in height when within a building or structure.

**Partition:** An act of dividing an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Also includes an area or tract of land partitioned.

**Partition, major:** A partition which includes the creation of a road or street without which there would not be vehicular access to the lots created.

**Partition, minor:** A partition that does not include the creation of a road or street.

**Partition, series:** A series of partitions of land resulting in the creation of four or more parcels over a period of more than one calendar year and composed of a series of minor partitions, a series of major partitions, or a combination of both.

**Partitioner:** Any person commencing proceedings under this Ordinance to effect a partition of land hereunder for himself or for another.

**Partition land:** To divide land into two or three parcels of land within a calendar year, but not including:

1. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots; or
2. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with applicable zoning ordinances and state law; or
3. The division of land resulting from the recording of a subdivision or condominium plat; or
4. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and ORS 215.283(2)(q) to (s). However, any property divided by

the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

5. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.

**Pavement Markings:** Painted or applied lines or legends placed on a roadway surface for regulating, guiding, or warning traffic.

**Pedestrian:** A person on foot, in a wheelchair, or walking a bicycle.

**Pedestrian facility:** A facility provided for the benefit of pedestrian travel, including walkways, crosswalks, signs, signals, illumination, and benches.

**Performance standards:** Guidelines which are provided in order to avoid the creation of nuisance or unsanitary conditions within developed areas and to enhance inter-industry compatibility.

**Permanent-type construction:** Structures or ground facilities constructed with the intent of providing service over the length of the lease agreement, with use of materials and methods of construction which under normal conditions of use will maintain appearance and functionality. Trailers, mobile offices and other similar temporary structures are not considered as permanent-type construction.

**Permit:** An official document, approved by the appropriate authority, allowing an applicant or landowner to proceed with a land use action, decision or development.

**Person:** An individual, a domestic or foreign corporation, a partnership, an association, a joint stock company, a trust, a firm, a social or fraternal organization, an estate, receiver, syndicate, branch of government or any other group or combination acting as a unit.

**Personal use airport:** A personal-use airport is an airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by invited guest(s), and by commercial aviation activities in connection with agricultural operations. No aircraft may be used on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under the definition may be granted through waiver action by the Oregon Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.

**Photovoltaic solar power generation facility:** an assembly of equipment that converts sunlight into electricity and then stores and/or transfers that electricity. This includes modules, mounting and solar tracking equipment, foundations, inverters, wiring, and storage devices and other components. Solar power generation facilities also include electrical cable collection systems connecting the solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances.

**Planned unit development:** A land area designated as a unified combination of land uses; generally, with a mixture of residential, single and multi-family types, open space or recreation areas for the direct



use and benefit of all the lot owners within the development and sometimes shopping or community facilities. A planned development includes a planned unit, a property owner's association, and common property.

**Plat:** A map, diagram, drawing, re-plat or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a partition or subdivision.

**Plat, final:** A final map, diagram, drawing, re-plat or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a partition or subdivision.

**Plat, partition:** A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a partition.

**Plat, preliminary:** The preliminary map, drawing or chart indicating the proposed layout of a partition or subdivision.

**Plat, subdivision:** A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

**Principal arterial:** Provides statewide and interstate mobility, including the Interstate System and other rural freeways that serve long distance high-volume corridors.

**Private road:** A private way, right of way, or traveled way in whole or in part that is subject to the control of one or more private persons. A private street or road shall provide access only to abutting parcels, lots or tracts.

**Processing area:** the floor area of a building dedicated to farm product processing. Processing area does not include the floor area designated for preparation, storage or other farm use.

**Property line:** See Lot Line.

**Property line adjustment:** The relocation of a common property line between two adjacent properties, where an additional unit of land is not created. Also known as a lot line adjustment.

**Public use road:** A public way, right of way, or traveled way in whole or in part that is subject to the jurisdiction of a public body but that is not a part of the County road system for maintenance or repair.

**Public sewer:** Any sewage disposal or treatment facility which serves three or more dwelling units.

**Public use:** A structure or use intended or used for public purpose by a city, a school district, the County, the State or by any other public agency or public utility. This does not include landfill sites, garbage dumps or utility facilities.

**Public use airport:** An airport that is open to the flying public, considering performance and weight of the aircraft being used. May or may not be attended or have services available.

**Public use building or use:** A structure or use intended or used for public purpose by a city, a school district, the County, the State or by any other public agency or public utility. This does not include landfill sites, garbage dumps or utility facilities.

**Public water supply:** Any domestic water supply system which provides water to three or more dwelling units or commercial or industrial operations which have 10 or more patrons or employees per day for more than 60 days per year.

**Quarry site:** The use of land for the purpose of recovering rock, stone, slate or the like. See Mining Site.

**Rangeland, designated:** Unirrigated agricultural land, and land so interspersed with rangeland that the interspersed land could not be used for another purpose without adversely affecting the rangeland activities. The predominant use of this type of land is for livestock grazing.

**Recreation Camps or Resorts:** An area devoted to facilities and equipment for recreational purposes, including swimming pools, tennis courts, playgrounds and other similar uses, whether the use of such area is limited to private membership or whether open to the public upon payment of a fee.

**Recreation park:** See, Campground or RV/Recreational Vehicle Park.

**Recreational vehicle/RV:** A vacation trailer or other unit with or without motive power, designed for human occupancy, which has a floor space of less than 500 square feet. In relation to floodplain management, a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

**Recreational vehicle/RV park:** An area used primarily for siting recreational vehicles/trailers for overnight/ temporary camping purposes. A recreational vehicle park is more developed than a campground, with electrical hookups, and cleared/paved areas for placement of the recreational vehicles.

**Regulatory floodway:** See Floodway.

**Relative:** For the purposes of the provisions of Chapter 410 and 420 only, “*relative*” means: spouse, child, parent, step-parent, grandchild, grandparent, step-grandparent, sibling, step-sibling, niece, nephew, first cousin or domestic partner.

**Repair:** The act of restoring by replacing a part or all of a structure or building to a sound state.

**Re-plat:** The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat, or to increase or decrease the number of lots in the subdivision.

**Reserve strip:** A strip of land adjacent to a street or road which limits or controls access to the street or road.

**Residence:** A place wherein the occupant dwells permanently or for the predominant portion of time.

**Residential facility:** A facility licensed by or under the authority of the Department of Human Resources which provides residential care along or in conjunction with treatment or training or a combination thereof for 6 to 15 individuals who need not be related. Staff persons required to meet Department

Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

**Residential home:** A home licensed by or under the authority of the Department of Human Resources which provides residential care along or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents and need not be related to each other or to any resident of the residential home.

**Residential Wind Power Generation Facility:** An activity carried out using one *wind turbine generator* operated as a single *wind power generation facility* that has a combined generating capacity of 15 kW or less, except it shall be 5 kW or less in any residential zone, and is 50 feet in height or less.

**Right-of-way:** An area that allows for the passage of people, vehicles and/or utilities. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public body, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public will be in a tract.

**Right-of-way of the Sumpter Valley Railway:** Refers to the existing railroad bed, including land within 34 feet of and parallel to the center line thereof.

**Riparian zone or area:** An area within which vegetation grows adjacent to naturally occurring streams, lakes, ponds, bogs and marshes without which the vegetation would not exist.

**Road or street:** A public or private way that is created to provide ingress and egress for a person to one or more lots, parcels, areas or tracts of land, excluding driveways and excluding a private way that is created to provide ingress and egress to such land in conjunction with the use of land for forestry, mining, or agricultural purposes without a residential facility.

**Roadway:** The improved portion of an easement or right-of-way, excluding curbs, sidewalks, and ditches. Road, roadway, and street will be considered interchangeable terms.

**Runway Protection Zone (RPZ):** An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of:

1. 1,000 feet for utility runways.
2. 1,700 feet for other than utility runways having non-precision instrument approaches.
3. 2,500 feet for precision instrument runways.

**Sale or sell:** Includes every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

**Seasonal farm worker housing:** Housing limited to occupancy by seasonal farm-workers and their immediate families which is occupied no more than nine months a year.

**Semi-public use:** A structure or use intended or used for semi-public purpose by a church, lodge, club, or any other non-profit organization.

**Series partition:** See Partition, Series.

**Setback:** An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this Ordinance.

**Shared driveway:** When land uses on two or more lots or parcels share one driveway. An easement or tract (owned in common) may be created for this purpose.

**Shared roadway:** A type of bikeway where bicyclists and motor vehicles share a travel lane.

**Sheet flow area:** See Area of Shallow Flooding.

**Shoulder:** The portion of a roadway that is contiguous to the travel lanes providing for pedestrians, bicyclists, emergency use by vehicles and for lateral support of base and surface courses.

**Shoulder bikeway:** A type of bikeway where bicyclists travel on a paved shoulder.

**Shy distance:** The distance between the edge of a travelway and a fixed object.

**Sidewalk:** A walkway separated from the roadway with a curb, constructed of a durable, hard and smooth surface, designed for preferential or exclusive use by pedestrians.

**Sight distance:** The distance a person can see along an unobstructed line of sight.

**Sign:** An outdoor sign, display, message, emblem, device, figure, painting, drawing, placard, poster, billboard or any other illustrative device that is used, designed, or intended for advertising purposes or to inform or to attract the attention of the public. The term includes the sign's supporting structure, display surface, and all other component parts of the sign. When dimensions of a sign are specified, the term includes panels and frames; the term includes both sides of the sign as to specified dimensions or areas. The term shall not include a sign that is reasonably necessary or required by any branch or agency of government, pursuant to any public law or regulation.

**Small-Scale Solar Power Generation Facility:** *A solar power generation facility which produces power to be used for non-commercial purposes. Net-metering is permitted with small-scale solar power generation facilities if it does not exceed 50% of the average expected annual energy production.*

**Small-Scale Wind Power Generation Facility:** *A wind power generation facility consisting of no more than two wind turbine generators operated as a single wind power generation facility that measures no more than 200 feet in total height and have a combined generating capacity of greater than 15kW to 1 MW. Lighting systems are not permitted on Small-Scale Wind Power Generation Facilities.*

**Solar panel:** a panel designed to absorb the sun's rays as a source of energy for generating electricity or heating.

**Start of construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers,

or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. In relation to floodplain management, includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**State highway:** A public way, right of way, or traveled way in whole or in part that is subject to the control of the State of Oregon.

**Story:** That portion of building between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.

**Street connectivity:** The number of street connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.

**Street stub:** A temporary street ending; i.e., where the street will be extended through adjacent property in the future, as those properties develop. Not a permanent street-end or dead-end street.

**Structural alteration:** Any change to the supporting members of a structure, including foundation, bearing walls, or partitions, columns, beams, girders or any structural change in the roof or in the exterior walls.

**Structural height:** Maximum height of structures and accessory attachments or utilities.

**Structure:** Something constructed or built and having fixed base on, or fixed connection to, the ground or another structure. In relation to floodplain management, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

**Subdivide land:** To divide an area or tract of land into four or more lots or parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year.

**Subdivision:** The act of subdividing land or an area or a tract of land subdivided.

**Substantial construction:** The completion of a structure's supporting foundation, excluding all minor improvements such as access roads, developed water sources, sewage disposal systems and electrical utilities.

**Substantial damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**Substantial modification:** The addition of 650 square feet of interior livable space, the effect of which is to require that access to the structure be improved to meet the requirements of Chapter 320 and the Transportation System Plan.

**Support structure:** A wireless communication tower, building, or other structure that supports an antenna used for wireless communications.

**Surface mining:** All or part of the process of mining minerals by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method by which more than 5,000 cubic yards of minerals are extracted or by which at least one acre of land is affected within a period of 12 consecutive calendar months, including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off site borrow pits (except those constructed for use as access roads) (ORS 517.750(15)(a)).

**Temporary housing:** A removable structure that is necessary and accessory to a permitted use for temporary housing, and is removed after the end of the use; located on the same lot or parcel as the commercial or industrial use.

**Temporary Public Facility:** any facility not constructed to the applicable County or district standard.

**Tenant:** Individuals and organizations which have either leased or purchased property which is subject to regulation or control.

**Total Height:** the vertical distance from ground level to the tip of a *wind turbine generator* blade when the tip is at its highest point.

**Tract:** One or more contiguous lots or parcels in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.

**Traffic calming devices:** Physical devices within the roadway designed to manage traffic speeds or which disperse traffic such as speed bumps/humps and traffic circles.

**Trailer home or travel trailer:** A structure or vehicle containing some or all of the provisions of a dwelling unit that is constructed for non-self-propelled movement on the public highways and contains less than 500 square feet.

**Travel trailer, pickup camper, motor home or recreational vehicle (RV)/trailer park:** A plot of ground upon which one or more trailer coaches, RVs or motor homes occupied for camping, dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations. A recreational vehicle park is more developed than a campground, with electrical hookups, and cleared/paved areas for placement of the recreational vehicles.

**Tree farm:** Timber stand improvements according to standards of the Agricultural Stabilization and Conservative Service (ASCS) performed for the twin objectives of fuel reduction to minimize the threat of wildfire and growth promotion of commercial species. These objectives are achieved by disposal of dead and down forest fuels, pruning and thinning. Reforestation as a tree farming practice may be regulated by the Oregon Forest Practices Act.

**Typographical error:** Narrowly defined as inaccuracies in page, section number, references, spelling, grammar, punctuation or syntax.

**Undivided interest:** A share, membership or undivided co-ownership which includes rights of access and use of property. Undivided interests are controlled by ORS 92.305 to 92.495.

**Unit owner/ownership:** The person owning a unit in any real estate tenancy relationship recognized under the laws of this state.

**Use:** The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained. The term shall include accessory uses subordinate to the main use.

**Utility facility, local distribution:** Local distribution utility facilities are local sewer, water, gas, telephone (non-wireless) and power distribution lines and are permitted as outright uses in any zone.

**Utility facility, major:** Any major facility or structure, as distinguished from local distribution utility facilities, owned or operated by a public, private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution, or processing of its products or for the disposal of cooling water, waste or by-products and including power transmission lines, major trunk pipelines, power substations, dams, wind and water towers, railroad tracks, sewage lagoons, sanitary landfills, and similar facilities. Excluded from this definition are dams whose impoundments exceed 1000 acre feet or electric transmission lines greater than 115 KVs. Towers 200' or higher must be reviewed as Conditional Use.

**Utility facility service lines:** Utility lines and accessory facilities or structures which end at the point where the utility service is received by the customer and which are located on one or more of the following:

1. A public right-of-way;
2. Land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or
3. The property to be served by the utility.

**Utility-Scale Solar Power Generation Facilities:** A solar power generation facility which produces power to be sold and used for public consumption.

**V/C ratio:** The ratio of demand flow rate (volume) to capacity for a traffic facility.

**Variance:** In relation to floodplain management, a grant of relief by Baker County from the terms of a flood plain management regulation.

**Vehicle:** Any motorized or non-motorized transportation equipment intended for use on public roads and associated with the home occupation, including, but not limited to, a car, van, pickup, motorcycle, truck, detached trailer or a truck tractor with no more than one trailer. An exception may be made for a detached trailer or trailers, which may be categorized as equipment if stored within an enclosed building approved for this use through the home occupation permit. Accessory space utilized for storage of a trailer shall be included in the calculation of total accessory space approved for the home occupation.

**Vehicle Trip:** A vehicular movement either to or from the subject property by any vehicle used in the home occupation, any delivery vehicle associated with the home occupation, or any customer or client vehicle.

**Violation:** In relation to floodplain management, the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

**Vision clearance area:** A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of a lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines shall be extended in a straight line to a point of intersection. The vision clearance area shall contain no plantings, walls, structures or temporary or permanent obstruction exceeding two-and-one-half feet in height measured from the top of the curb or grade level at the street or road outside edge.

**Visual Simulation:** Computer generated imagery, depicted to scale from *key observation points*, of all *wind turbine generators* and substations at the completion of the project.

**Volume:** The number of persons or vehicles passing a point on a lane, roadway, or other trafficway during some time interval, often taken to be one hour, expressed in vehicles.

**Walkway:** A transportation facility built for use by pedestrians, including persons in wheelchairs. Walkways include sidewalks, paths, and paved shoulders.

**Watchman's quarters:** Housing that is necessary and accessory to a permitted use, for housing personnel required to live onsite for security reasons; located on the same lot or parcel as the commercial or industrial use.

**Water dependent:** A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

**Water surface elevation:** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Wetlands:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal circumstances do support, a prevalence of vegetation typically adopted to life in saturated soil conditions.



**Wide outside lane:** A wider than normal curbside travel lane that is provided for ease of bicycle operation where there is insufficient room for a bike lane or shoulder or shoulder bikeway.

**Wildlife management area:** Any land, under any ownership, whose use or access is intentionally controlled in any way for the principle purpose of managing wildlife.

**Wind Power Generation Facility:** a facility used to harness a wind resource, including but not limited to: *wind turbine generator*, electrical facilities, transmission facilities, substations, distribution, communications and ancillary facilities, foundations, roads and any other structure sited in support of the *wind power generation facility*.

**Wind Shadow:** an area of still air created behind a *wind turbine generator*. It is typically a cone whose length across the land is 7-10 times the diameter of the rotor of the *wind turbine generator*.

**Wind Turbine Generator:** A freestanding wind power generating structure consisting of tower, nacelle and rotor with blades.

**Wireless communication facility:** An unmanned facility for the transmission of radio frequency (RF) signals, consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices. Freestanding point-to-point microwave dishes, high power television and FM transmission facilities and AM facilities are not wireless communication facilities.

**Wireless communication tower:** A freestanding support structure, including monopole and lattice tower, designed and constructed primarily to support antennas and transmitting and receiving equipment. Wireless communication towers include:

1. **Lattice tower.** A tower characterized by an open framework of lateral cross members which stabilize the tower; and
2. **Monopole.** A single upright pole, engineered to be self-supporting, that does not require guy wires or lateral cross supports.

**Wireless communication tower height:** The distance from the finished grade at the antenna tower base to the highest point of the tower, including the base pad, mounting structures and panel antennas, but not including lightning rods and whip antennas.

**Wrecking yard or junkyard:** Legally established motor vehicle graveyards where the parts of eight or more auto bodies are kept; scrap-metal processing facilities; any establishment or place of business that is maintained, operated or used for storing, keeping, buying or selling old or scrap or ruined motor vehicles or related parts, or copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, wrecked, scrapped, or ruined motor vehicles, or motor vehicle parts, iron, steel, or other old or scrap ferrous or non-ferrous material, metal or non-metal material.

**Yard:** An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this Ordinance.

1. **Yard, front:** An open space between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the building. Any yard meeting this definition and abutting on a street or road other than an alley shall be considered a front yard.

2. **Yard, rear:** An open space between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the building.
3. **Yard, side:** An open space between the front and rear yards measured horizontally at right angles from the side lot lines to the nearest point of the building.

**Yurt:** In farm or forest zones, a yurt is limited to a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

## Chapter 210 CONDITIONAL USES

- 210.01 Purpose**
- 210.02 Authorization**
- 210.03 Process Type**
- 210.04 Approval Criteria**
- 210.05 Conditions of Approval**

**210.01 Purpose.** There are certain uses that, due to the nature of the impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. The purpose of this Chapter is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

**210.02 Authorization.** Conditional use permits shall be issued to the owner of the property.

A. Applicability:

1. Conditional uses listed in this Ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this Chapter related to the following actions:
  - a. Permitting a new conditional use;
  - b. Modifying an existing conditional use;
  - c. Re-activating a conditional use that has been interrupted or abandoned for a period of one year or more.
2. Surface mines whose Department of Geology and Mineral Resources (DOGAMI) permits have been continuously renewed by payment of an annual renewal fee and/or the bond retained shall be considered as an on-going use even if the activity at the site has been interrupted longer than one year.

B. Approval and conditions. Upon adoption of findings relating to the need for additional requirements, the Decision-Making Body may impose additional conditions as described in Section 210.06 to ensure the proposed use or modified use does not create adverse impacts on surrounding properties.

**210.03 Process Type**

- A. New conditional use. A new conditional use shall be reviewed by means of a Type III procedure, per Section 115.07. Criteria listed in the applicable land use zone or overlay zones will apply, in addition to the approval criteria in Section 210.04.
- B. Modified conditional use. Modifications to existing conditional use permits shall be reviewed by means of Chapter 245.

- C. Reactivated conditional use. A reactivated conditional use shall be reviewed by means of a Type II procedure, per Section 115.06, using approval criteria in Section 210.04. Criteria listed in the applicable land use or overlay zones will apply, in addition to the approval criteria in Section 210.04. The reactivated permit shall be given the same expiration date as would a new conditional use permit for the same use.

#### **210.04 Approval Criteria**

- A. New or Re-activated Conditional Use. A new or re-activated conditional use may be approved, approved with conditions, or denied based on compliance with the following approval criteria:
1. The proposal will be consistent with the Comprehensive Plan and objectives of this Ordinance and other applicable policies of the County.
  2. Taking into account location, size, design and operating characteristics, the proposal will have a minimal adverse impact on the (1) livability, (2) value, and (3) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
  3. All required public facilities have adequate capacity to serve the proposal.
  4. The proposal will not result in emissions that damage the air or water quality of the area. Documentation is required to demonstrate that required state and federal discharge permits have been obtained.
  5. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrant.
  6. The proposal will preserve assets of particular interest to the community.
- B. Modified Conditional Use. Modifications to existing conditional use permits shall be reviewed by criteria set forth in Chapter 245.
- C. Phased development approval. As part of the approval process, the decision-making body shall approve a time schedule for developing a site in phases over a period of time of up to 4 years, with possible extension approval of up to 2 additional years. To approve a phased conditional use review proposal, all of the following criteria shall be satisfied:
1. The public facilities shall be constructed in conjunction with or prior to each phase.
  2. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities.
  3. The phased development shall not result in requiring the County or other property owners to construct public facilities that were required as part of the approved development proposal.

**210.05 Conditions of Approval.** In permitting a new, modified or re-activated conditional use, the Decision-Making Body may impose additional conditions that the Decision-Making Body considers necessary to protect the best interests of the surrounding area or the County as a whole.

**Chapter 220**  
**PERMIT EXPIRATION DATES AND EXTENSIONS**

- 220.01 Establishment**
- 220.02 Farm and Forest Land Extensions**
- 220.03 Property Line Adjustment Extensions**
- 220.04 Subdivision Extensions**
- 220.05 Other Permit Expiration Dates and Extensions**

**220.01 Establishment.** Any questions of whether an action that was approved through this Ordinance is considered established, and no longer in need of an extension, shall be decided by the Planning Commission using a Type III procedure. The decision shall be based on whether, in the opinion of the Planning Commission, the applicant/property owners have made satisfactory progress and established the use. This will be based on review of relevant conditions of approval and other facts the Planning Commission determines to be relevant.

**220.02 Farm and Forest Land Extensions.** The following permit expiration dates and extensions shall apply in the Exclusive Farm Use and Timber Grazing zones:

- A. A discretionary decision, except for land divisions and those residential developments listed in Section 220.02(B) is void two years from the date of the final decision if the development action is not initiated in that period.
  - 1. An extension of two years may be granted if:
    - a. The applicant makes a written request for extension of the development approval period;
    - b. The request is submitted to the county prior to the expiration of the approval period;
    - c. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
    - d. The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
  - 2. Approval of an extension granted under this provision is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.
  - 3. Changes to the code impacting life, safety or sanitation since the original decision was authorized shall be accounted for in the decision for an extension request permitted under Section 220.01(A).
  - 4. Applications for an extension shall be processed as a Type I procedure as set forth in Section 115.04 of this Ordinance unless the decision maker expressly requires the extension to be processed under Type III procedure.
- B. Permits approved for a proposed residential development on resource land outside of an urban growth boundary shall be valid for four years. An extension of two years may be granted subject to the provisions of 220.01(A).
  - 1. For the purpose of this Section, "*residential development*" only includes:

- a. Alteration, restoration or replacement of a dwelling,
  - b. Non-farm dwellings,
  - c. Lot-of-Record dwellings,
  - d. Forest management dwellings,
  - e. Alternative forest dwellings approved under the provisions of ORS 215.750, or
  - f. Caretaker residences in the Timber Grazing Zone.
2. No more than five (5) additional one-year extensions of a permit for a proposed residential development on resource land outside of an urban growth boundary may be issued if:
    - a. The applicant makes a written request for the additional extension prior to the expiration of an extension;
    - b. The applicable residential development statute has not been amended following the approval of the permit; and
    - c. An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.
  3. Approval of an extension granted under this provision is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.
  4. Changes to the code impacting life, safety or sanitation since the original decision was authorized shall be accounted for in the decision for an extension request permitted under Section 220.01(A).
  5. Applications for an extension shall be processed as a Type I procedure as set forth in Section 115.04 of this Ordinance unless the decision maker expressly requires the extension to be processed under Type III procedure.

**220.03 Property Line Adjustment Extensions.** Upon written request by the applicant and payment of the required fee, the Planning Director shall grant an extension of the approval period not to exceed one year by means of a Type I procedure as governed by Chapter 115, providing that:

- A. No changes are made on the original plan as approved by the Planning Director.
- B. The applicant can show intent to record the approved line adjustment within the one-year extension period; and
- C. There have been no changes made to the Code impacting life, safety or sanitation issues that were not accounted for in the decision.

**220.04 Subdivision Extensions**

- A. First extension. Upon written request by the applicant and payment of the required fee, the Planning Director may grant an extension of the approval period not to exceed one year provided by means of a Type I procedure, as governed by Section 115.04, provided that:
  1. No changes are made on the approved final plat as approved by the Planning Director.
  2. The applicant can show intent to record the approved subdivision within the one-year extension period; and

3. There have been no changes made to the Code impacting life, safety or sanitation issues that were not accounted for in the decision.
- B. Second extension. Upon written request by the applicant and payment of the required fee, the Planning Director may grant a second extension of the approval period not to exceed one year by means of a Type II procedure, as governed by Section 115.05, provided that the applicant is in compliance with the same requirements as contained in subsection (A) above.

**220.05 Other Permit Expiration Dates and Extensions.** For all permits not in the Farm or Forest Zones, the following permit expiration dates shall apply:

- A. Permits which have special conditions relating to expiration and/or renewal attached to them shall expire one year after the date conditioned in the approval.
  1. If the conditions of approval are not fulfilled within the life of the permit, the permit holder may request a one-year extension of the permit from the Planning Director subject to the following requirements:
    - a. The request is made by filing a request for an extension on forms provided by the Baker County Planning Department together with an application fee;
    - b. The request is made before the original permit or any subsequent extension expires;
    - c. There have been no changes made to the Code impacting life, safety or sanitation issues that were not accounted for in the decision and no change in the circumstances, criteria or standards used to support the original approval or subsequent extension;
    - d. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
    - e. The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
  2. Applications for an extension shall be processed as a Type I procedure as set forth in Section 115.06 of this Ordinance unless the decision maker expressly requires the extension to be processed under a Type III procedure.

## Chapter 225 HOME OCCUPATIONS

- 225.01 Purpose**
- 225.02 Type I Minor Home Occupations**
- 225.03 Type III Major Home Occupations**

**225.01 Purpose.** The purpose of this Chapter is to detail the standards and procedures for home occupations. Home occupations can be permitted through either a Type I or a Type III procedure. The intent of permitting home occupations is to:

- A. Encourage economic development in the County by promoting home occupations;
- B. Reduce vehicle miles traveled by providing opportunities for people to work from their homes;
- C. Recognize the differences between residential communities, and provide standards for home occupations consistent with these differences;
- D. Ensure the compatibility of home occupations with other uses permitted in the underlying zoning district;
- E. Maintain and preserve the character of the community and residential neighborhoods; and
- F. Mitigate noise, traffic and other possible negative effects of home occupations.

**225.02 Type I Minor Home Occupations.** Type I Minor Home Occupations exhibit no evidence that a business is being conducted from the premises.

- A. Type I Minor Home Occupation permits may be obtained via the Type I Procedures outlined in Section 115.05.
- B. Type I Minor Home Occupations shall comply with the following standards:
  - 1. Location. Any property in residential use. The home occupation shall be limited to the parcel the dwelling is located on.
  - 2. Scale. A Type I Minor Home Occupation shall be conducted within a dwelling and shall be clearly incidental to the use of the structure as a dwelling. Incidental use of accessory structure space is allowed, but is limited to, storage purposes only.
  - 3. Character. There shall be no visible evidence of the conduct of a Type I Minor Home Occupation from outside the dwelling except as otherwise allowed by this Section, except for signs permitted, pursuant to Chapter 730.
  - 4. Participants. No persons other than members of the immediate family residing on the premises shall be employed in the operation of the Type I Minor Home Occupation. In the Exclusive Farm Use zone, that shall be limited to no more than five full- or part-time employees.
  - 5. Storage. There shall be no outside storage associated with a Type I Minor Home Occupation.



6. Display of Products. There shall be no display of products visible from outside an enclosed building space.
7. Traffic.
  - a. Delivery services shall be limited to no more than five business deliveries per day.
  - b. Customer/client traffic shall be limited to a maximum of ten trips per day.
8. Parking.
  - a. No vehicles associated with a Type I Minor Home Occupation shall be stored, parked, or repaired on public rights-of-way.
  - b. The maximum number of customer or client vehicles that are associated with a Type I Minor Home Occupation and located on the subject property shall not exceed four at any time.
9. Noise, Equipment, and Process Restrictions. A Type I Minor Home Occupation shall not create noise, vibration, glare, fumes or odor that exceeds normal residential activity.
10. The Home Occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

**225.03 Type III Major Home Occupations.** All Major Home Occupations shall be reviewed as a Conditional Use. Type III Major Home Occupations may show evidence that a business is being conducted from the premises. Type III Major Home Occupations may be located on properties where the majority of abutting properties are greater than two acres.

- A. Type III Major Home Occupation permits may be obtained via the Type III Procedures outlined in Section 115.07. Type III Major Home Occupation permits also require valid Conditional Use Permits as per the requirements of Chapter 210.
- B. Type III Major Home Occupations shall comply with the following standards:
  1. Location. The home occupation shall be limited to the parcel the dwelling is located on unless use of an additional parcel(s) is expressly approved.
  2. Operator. The operator of a Type III Major Home Occupation shall reside in a dwelling on the subject property.
  3. Employees. There shall be no more than five full- or part-time employees.
  4. The Home Occupation shall be operated substantially in the dwelling or accessory space as described in subsection (4) of this Section.
  5. Accessory Space. In addition to the incidental use of the dwelling, the maximum square feet of accessory space that may be used for a Type III Major Home Occupation shall be determined by the Planning Commission. In the case of a bed and breakfast homestay, use of the dwelling is not

required to be limited to incidental use. In the Exclusive Farm Use zone, accessory buildings used are limited to other buildings normally associated with the uses permitted in the zone.

6. Nothing in this Section authorizes construction of any structure that would not otherwise be allowed in the zone in which the home occupation is established.
7. Noise. All noise associated with the use shall not exceed normal residential use between the hours of 8 am and 6 pm, unless otherwise specified in a Conditional Use Permit.
8. Equipment and Process Restrictions. A Type III Major Home Occupation shall not create vibration, glare, fumes or odors between 8:00 a.m. and 6:00 p.m. that exceed normal residential activity, unless allowed by the Conditional Use Permit.
9. Outside Storage. No display of goods or merchandise externally shall occur except as specifically allowed by the Conditional Use Permit.
10. Signs. Signs shall be permitted, pursuant to Chapter 730.
11. Traffic. A Type III Major Home Occupation shall not generate more than 40 vehicle trips per day.
12. Parking.
  - a. No vehicle associated with a Type III Major Home Occupation shall be stored, parked or repaired on public rights-of-way.
  - b. The maximum number of vehicles that are associated with a Type III Major Home Occupation and located on the subject property shall not exceed 20 at any time, including, but not limited to, employee vehicles, client vehicles and vehicles to be repaired.
  - c. Vehicles to be repaired shall be located within an enclosed building or in an area not visible from off the subject property.
  - d. Parking spaces needed for employees or clients of a Type III Major Home Occupation shall be provided in defined areas of the subject property.
13. Hazards. If a Type III Major Home Occupation use will alter the occupancy classification of an existing structure as determined by the building official, then the structure shall be made to conform with the State of Oregon Specialty Codes and/or One and Two Family Dwelling Code and the requirements of the State Fire Marshal or the local fire district.
  - a. Hazardous materials to be used or stored on the subject property shall comply with the quantities and manner required by state and federal standards.
14. Access. The subject property must have verified legal access.
15. The Home Occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
16. The existence of home occupations shall not be used as justification for a zone change.

**Chapter 230**  
**PLANNED UNIT DEVELOPMENTS**

- 230.01 Purpose and General Concept**
- 230.02 Authorization**
- 230.03 Application Contents and Procedure**
- 230.04 Conditional Uses Permitted Through a Type III Procedure**
- 230.05 General Standards**
- 230.06 Special Landscaping Standards**
- 230.07 Special Standards for Manufactured Homes**
- 230.08 Common Open Space Standards**
- 230.09 Minimum Lot Sizes**
- 230.10 Dwelling Unit Density**
- 230.11 Findings for Project Approval**
- 230.12 Approval of Preliminary Development Plan**
- 230.13 Approval of Final Development Plan**
- 230.14 Changes Subsequent to Completion**

**230.01 Purpose and General Concept.** Traditional zoning establishes zone boundaries and sets forth permitted uses of land within the various zones and general conditions for such uses which are intended to apply to individual lots and standard minimum-sized parcels. Acknowledging that land may be more effectively developed in planned building groups for residential, commercial, or a mixture of those uses by application of imaginative site design techniques, and recognizing the applicability of the objectives set forth in this Chapter, the Planning Commission intends:

- A. To consider Planned Unit Development Proposals within a framework of defined land use policies and objectives.
- B. To provide flexibility in the application of the general zoning provisions of this Ordinance.
- C. To encourage developments which provide flexibility of design in the placement of buildings and open spaces, off-street parking areas, street alignments, and other facilities.
- D. To promote the economy of shared community services and facilities.
- E. To ensure the creation of attractive, helpful, and efficient environments for housing and commerce.
- F. To best utilize the potential of sites characterized by special features of geography, topography, size or shape.
- G. To permit flexibility that will encourage a more creative approach to the development of land and will result in a more efficient, aesthetic, and desirable use of open space while at the same time harmonizing with adjoining development and maintaining population densities which are consistent with the transportation facilities and utilities available and with the public health and safety standards of the County, and which do not adversely impact neighboring development.

**230.02 Authorization.** The Planning Commission may authorize Planned Unit Developments as Conditional Uses, per the requirements of Chapter 210.

A Planned Unit Development, as authorized, shall be subject to all conditions imposed by the Planning Commission and shall be excepted from other provisions of this Ordinance only to the extent specified in the authorization. An application requiring a Zoning Amendment shall be subject to the procedures of Chapter 260.

- A. Planned Unit Residential Developments may be permitted by the Planning Commission in the Rural Residential (RR-5) and the Recreation Residential (RR-2) Zones.
- B. Planned Unit Commercial Developments may be permitted by the Planning Commission in the Recreation Residential (RR-2) Zone.

### **230.03 Application Contents and Procedure**

- A. Before submitting development plans or surveys for approval, an applicant proposing a Planned Unit Development shall confer with the Planning Department to obtain general information, guidelines, procedural requirements, and advisory opinions on the project concept.
- B. Following this consultation, the applicant may prepare a preliminary development plan and submit the application to the Planning Department. In addition to the general requirements of the Baker County Zoning Ordinance, the preliminary plan shall contain the following elements, if applicable:
  - 1. Development proposal outline consisting of:
    - a. General schematic maps which depict:
      - i. The existing topography of the site, percent of slope, and contour map drawn at intervals appropriate for the steepness of the terrain.
      - ii. Existing land use adjacent to the site, including major roads, current designed capacity, and proposed future capacity.
      - iii. Location of public uses, including schools, parks, playgrounds, and other open spaces, on the proposed site or nearby area, which are needed to serve the development.
      - iv. A written description of the proposed development and its impact on public facilities available.
      - v. A written statement which is part of the development proposal outline shall contain:
        - a) Explanation of the character of the Planned Unit Development and the manner in which it has been planned to take advantage of the special provisions contained in this Chapter.
        - b) A financial capability report indicating prospective sources of funds.
        - c) Evidence of ownership or control of the parcel proposed for development, including location by legal description of the property, addresses of the applicants, owners, and designers of the development.
        - d) A general indication of the expected development schedule.

- e) Method, capacity, operation, and maintenance proposals for water supply, sewage disposal, fire protection (if any), open space and recreation, and area maintenance and drainage.
  - f) Environmental and/or economic impact studies as may be required by the Planning Commission.
2. A tentative plat or map as required by Chapter 280 or Chapter 290 of this Ordinance.
  3. Where re-platting is required, the site plan shall be superimposed upon a drawing which depicts all property lines, lot numbers, utility lines, and easements or streets of the original plan now being re-platted.
  4. A plot plan, if any, showing the approximate location and height of buildings, structures and other improvements and indicating the open spaces around buildings and structures and existing trees to be preserved or destroyed.
  5. Location and design of off-street parking or loading facilities showing points of ingress and egress from the site, numbers of stalls and arrangement.
  6. The location, direction and bearing of any major physiographic features such as streams, irrigation ditches, or shorelines.
  7. Elevation and perspective drawings of proposed structures may be submitted at the option of the applicant.
  8. A development schedule indicating:
    - a. The approximate date when construction of the project will begin.
    - b. The phases in which the project will be built and approximate starting dates for each phase, if any.
    - c. The area, location and degree of development of common open space that will be provided at each phase if the development is completed in phases.
  9. Agreements, provisions or covenants which govern the use, maintenance, and continued protection of the Planned Unit Development in any of its open space areas.
  10. The following plans and diagrams are required:
    - a. A circulation plan indicating proposed circulation of vehicles, goods and pedestrians within the Planned Unit Development and to/from access roads. Any special engineering features and/or traffic regulation devices needed to facilitate or ensure the safety of this circulation pattern will be shown.
    - b. A schematic landscape plan.
    - c. A preliminary drainage and grading plan for the collection and transmission of run-off water.

## **230.04 Conditional Uses Permitted Through a Type III Procedure**

- A. The following are Conditional Uses in Planned Unit Residential Developments (RR-2 and RR-5):
1. A Conditional Use in the primary zone in which the development is located.
  2. Varied use and mixing of housing types including single-family dwellings, duplexes, townhouses, multi-family dwelling groups, and accessory buildings and uses.
  3. Temporary offices for real estate sales and development of the project, per the requirements of Chapter 250.
  4. Commercial service supported mainly by the residents of the development.
  5. Manufactured home developments, provided:
    - a. The standards for manufactured home parks contained in Oregon Statutes are satisfied; and
    - b. Manufactured homes shall not be occupied until all construction has been completed and certified by the Oregon Department of Commerce.
  6. A Planned Unit Residential Development which includes commercial uses and dwellings shall be permitted only if the design ensures adequate design features to protect dwellings within and adjacent to the development from traffic, noise, and similar adverse influences associated with commercial uses. Dwellings may be situated above commercial uses.
- B. The following uses are allowed in Planned Unit Commercial Developments (RR-2):
1. A use permitted outright or conditionally in the primary zone.
  2. Varied arrangement and location of commercial building types and designs.
  3. Single, duplex or multiple-family dwellings if designed with adequate buffering.

## **230.05 General Standards**

- A. The perimeter setback requirements established for the zone shall apply to the Planned Unit Development except when otherwise increased or decreased by the Planning Commission.
- B. Design features shall provide light and solar access, ventilation, privacy, and other characteristics equivalent to that obtained from the normal setback requirement of the zone.
- C. All electrical, telephone, or cable television utilities shall be located underground.
- D. Off-street parking and/or loading facilities for a Planned Unit Development shall not be less than the sum of the required parking and/or loading facilities for the various uses computed separately.
- E. Spacing of buildings or permitted setback reduction shall not create access problems for fire-fighting equipment.

## **230.06 Special Landscaping Standards**

- A. When parking areas are proposed within required yards, adequate landscaping of such parking areas shall be provided. Such landscaping shall be provided in a manner which generally screens vehicles from view but provides adequate traffic visibility at all intersections and points of ingress/egress.
- B. Special consideration may be given to developments where little, if any, landscaping is possible, as well as other developments where the nature of the development makes landscaping difficult or inappropriate. The Planning Commission may waive landscaping requirements when determined to be appropriate. Special consideration can also be given to sites with existing vegetation in determining areas of landscaping.
- C. The following minimum area of each Planned Unit Development shall be landscaped:
  - 1. Residential Planned Unit Developments: Area to be landscaped: 50% of the undeveloped land.
  - 2. Commercial Planned Unit Developments: Areas to be landscaped: 25% of the undeveloped land.
  - 3. These minimum landscaping standards may be increased by the Planning Commission as required to buffer adjacent uses or interior mixed uses within the Planned Unit Development.
- D. There shall be specified minimum areas of open space for usable recreation areas within the duplex and/or multiple family residential developments, and such open space shall be considered as part of the required landscaping.
- E. A landscape plan shall be prepared.
- F. All required setback areas abutting public streets shall be landscaped, including parking facilities. Such areas will be included in area computation. Trees and landscaping shall be placed randomly throughout parking areas/lots.
- G. All open areas between the property line and the public street shall be landscaped and shall be included in the maintenance requirement.
- H. All trash receptacles shall be fully screened from public view. The location of trash receptacles shall take into consideration the noise impact on adjacent properties.

**230.07 Special Standards for Manufactured Homes.** In addition to general location and landscaping standards, manufactured home planned unit developments shall satisfy the requirements of this Section. Manufactured homes shall be placed on permanent foundations under either of the following situations:

- A. Foundations shall be excavated to below ground level to allow placement of the manufactured home at grade level, and the tongue, axle(s) and wheels must be removed; or,
- B. The tongue, axle(s) and wheels shall be removed and the entire exterior of the manufactured home shall be skirted from the ground up to the bottom of the unit.

## **230.08 Common Open Space Standards**

- A. In Residential Planned Unit Developments there shall be a minimum of 25% of the site, excluding roads, parking areas or commercial uses, set aside, dedicated, or reserved as common open spaces. This percentage may be considered part of the landscaped area required in Section 230.06.
- B. No open area may be accepted as common open space within a Planned Unit Development unless it meets the following requirements:
1. The location, size and character of the common open space is suitable for the planned development.
  2. The common open space is for amenity or recreational purposes and the uses authorized are appropriate to the scale and character of the Planned Unit Development considering its size, density, expected population, topography, and the number and type of dwellings provided.
  3. Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements to be permitted in the common open space are appropriate to the uses authorized for the common open space and will conserve and enhance the amenities of the open space having regard for its topography and unimproved condition.
  4. No more than one-half of the common open space requirement may be met with land having slopes exceeding 25% or with submerged, marshy or boggy land.
  5. The development schedule which is part of the development plan shall coordinate the improvement of the common open space and the construction of buildings and other structures in the common open space with the construction of residential dwellings in the Planned Unit Development.
  6. If building structures or other improvements are to be made in the common open space, the developer shall post a bond or other adequate assurance that the buildings, structures and improvements shall be completed. The Planning Department shall release the bond or other assurances when the buildings, structures, and other improvements have been completed according to the development plan.
- C. Land shown on the final development plan as common open space shall be conveyed to an association of owners or tenants created as a non-profit corporation under the laws of the State, which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the County Legal Counsel as providing for the continuing care of the open space. Such an association shall be formed and continued in perpetuity for the purpose of maintaining the common open space.
- D. No common open space may be put to a use not specified in the final development plan unless said plan is first amended to permit the use. However, no change of use may be considered a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any use permitted are expressly reserved by Baker County.
- E. Deed restrictions shall be placed on Planned Unit Development lots and the remaining land:
1. To commit the open land and resource land to continued management and preservation of such use; and



2. To acknowledge that the development rights to the common open space land have been utilized and no further developments may occur beyond the allowable density established by this Ordinance; and
3. The governing body of Baker County shall be a party to these restrictions; and
4. Any Amendment to these restrictions may only occur with the consent of all parties including the Baker County Board of Commissioners.

**230.09 Minimum Lot Sizes.** A Planned Unit Development may not be established on less than five acres of contiguous land unless the Planning Commission finds that the property is suitable due to its unique location, character, topography, or other natural features and is of sufficient size to be planned and developed in a manner consistent with the concept of a Planned Unit Development.

**230.10 Dwelling Unit Density.** Dwelling unit density per gross site/acre shall not exceed that allowed within the requirements of the primary zone where the Planned Unit Development is located. Where commercial uses are contained within a Planned Unit Development, in addition to residences, the land area occupied by such uses and streets shall not be included in the land area used to calculate the permitted number of dwelling units.

**230.11 Findings for Project Approval.** A Planned Unit Development shall be approved only if it satisfies the following standards, along with the requirements of Chapter 210:

- A. The proposed Planned Unit Development is an effective and unified treatment of the development possibilities on the project site, while remaining consistent with the Baker County Comprehensive Plan, and makes appropriate provisions for the preservation of natural features in a manner that benefits the general public sufficiently to justify necessary exceptions to the specific requirements of the zone in which the Planned Unit Development is proposed to be located.
- B. The proposed Planned Unit Development meets the minimum standards specified in this Chapter for such development.
- C. The existing and natural features of the land have been considered in the plan of the development and important features utilized for open space and common areas.
- D. The development will not have a substantial adverse effect upon the area surrounding the project site in terms of air and water quality, public facilities, natural hazards, or scenic qualities.
- E. The development will be planned and constructed to ensure a high degree of safety for users of the development and neighboring areas.
- F. The development will be planned and constructed to provide adequate circulation facilities to, in and around the project such that future development is not impeded nor are areas of undue congestion created.

- G. The development will not require roads, streets or County services beyond those required by a typical lot-by-lot development. In cases where increased services are required, compensation for these services will be paid by the developer.
- H. There are adequate provisions for the maintenance of open space and common areas that, if developments are to occur in phases, the early phases have the same or higher ratio of amenities as proposed in later phases of the development.
- I. Where applicable, consideration is given to the following items:
  - 1. In Residential Planned Unit Developments, the quality of the development in general, and the use of open space and recreational areas are such that they provide a high degree of livability for its residents.
  - 2. In Commercial Planned Unit Developments, such developments are efficient and well-organized with adequate access to service and storage.

### **230.12 Approval of Preliminary Development Plan**

- A. The procedures for review of a tentative plat as specified in Chapter 280 or Chapter 290 of this Ordinance shall be followed.
- B. In addition, the following procedures shall be adhered to:
  - 1. The Staff Report shall discuss the desirability of the Planned Unit Development in terms of the degree to which the proposal conforms or fails to conform to standards and criteria specified in this Chapter and any recommended conditions required to be met by the proposed development.
  - 2. A preliminary development plan may be submitted, reviewed and approved in stages not to exceed six months for the total review, once the development proposal outline has been approved by the Planning Commission.
  - 3. The Planning Commission may approve, approve with modifications, or deny the Planned Unit Development based upon standards and criteria listed in this Chapter. Modifications or conditions which may be imposed include, but are not limited to, the following:
    - a. Require view-obscuring shrubbery, walls or fences along property lines and around unsightly areas such as trash and equipment storage areas and heavy commercial activities.
    - b. Require the retention of and clearances from specified trees, rocks, water ponds, or water courses and other natural features; such retained features to be considered as landscape areas, pursuant to Section 230.06.
    - c. Require dedicated rights-of-way for streets and pedestrian ways and easements for utilities and waterways.
    - d. Require the applicant to make an irrevocable offer of dedication of any right-of-way area needed for public use.
    - e. Restrict heights to less than 35 feet and/or increase setbacks.

- f. Require a certain type and placement of lights for outdoor circulation and parking facilities. Such lighting shall not directly shine or reflect upon adjoining properties.
4. The hearing may be continued for information upon a motion of the Planning Commission or the applicant.
5. The applicant shall notify the County in writing if the proposal is to be abandoned prior to the final approval of the Planned Unit Development.

### **230.13 Approval of Final Development Plan**

- A. Within 12 months following approval of the preliminary development plan, the applicant shall file with the Planning Commission a final development plan containing, in final form, the information required by the preliminary plan and conditions which may have been imposed by the Planning Commission, and a final plat as required by Chapter 290.
- B. If the Planning Commission finds evidence of a material deviation from the preliminary development plan, the applicant shall be advised to submit an application for Amendment of the Planned Unit Development. An Amendment shall be considered in the same manner as the original application.
- C. Any and all improvement work, including the construction and inspection of County roads by the Road Department, shall be the responsibility of the applicant prior to submittal of a final plat or map to divide the property. Where the applicant intends to post a bond or provide other assurances in lieu of completing the improvements, such bond or assurances shall be to the satisfaction of the Planning Director or other official of the County or utility company as a condition of final approval by the Planning Commission.
- D. In the event that construction has not commenced within one year after final approval is granted, or, having been commenced, has been discontinued for one year, no development or further development shall take place on the site without the approval of the Planning Commission. However, the Planning Commission may grant an extension of one year if deemed appropriate.

### **230.14 Changes Subsequent to Completion**

- A. The final development plan shall continue to control the Planned Unit Development after it is completed, and the following shall apply:
  1. The Planning Director, issuing a Certificate of Completion of the Planned Unit Development, shall maintain a record of such Certificate.
  2. After the Certificate of Completion has been issued, the use of the land and the construction, modification, or alteration of a building or structure within the Planned Unit Development shall be governed by the approved final development plan.
  3. After the Certificate of Completion has been issued, no change shall be made in development contrary to the approved final development plan without approval of an Amendment to the plan, except as follows:

- a. Minor modifications of existing buildings or structures may be authorized by the Planning Director if they are consistent with the purposes and intent of the final plan and do not significantly increase the square footage of the building or structure.
  - b. A building or structure that is totally or substantially destroyed may be reconstructed without approval of an Amended Planned Unit Development if it is in compliance with the purpose and intent of the final development plan.
4. An Amendment to a completed Planned Unit Development may be approved if it is required for the continued success of the Planned Unit Development; if it is appropriate because of changes in conditions that have occurred since the final development plan was approved; or because there have been changes in the development policy of the community as reflected by the Baker County Comprehensive Plan or related Land Use regulation.
  5. No modification or Amendment to a completed Planned Unit Development is to be considered as a waiver of the covenants limiting the use of the land, buildings, structures and improvements within the area of the Planned Unit Development; and all rights to enforce these covenants against any change permitted by this Chapter are expressly reserved by the County.

**Chapter 235**  
**SPECIAL EVENT PERMITS**

- 235.01 Purpose**
- 235.02 Applicability**
- 235.03 Process Type**
- 235.04 Application Requirements**
- 235.05 Approval Criteria**

**235.01 Purpose.** The purpose of this Chapter is to provide standards for agri-tourism events, wedding and event venues, and other similar commercial events on private property within Baker County.

**235.02 Applicability**

- A. This chapter applies to special events in all zones and unincorporated communities within Baker County, except those listed as resource districts in Article 4.
- B. This chapter is not intended to apply to events hosted at such public gathering places such as churches, community centers, grange halls, schools or similar structures; or to events covered by the State’s Mass Gathering Statute (ORS 433.735 - 433.770); or events covered under an existing conditional use permit.
- C. This chapter is not intended to apply to private weddings, funerals, family reunions and other similar, non-commercial events.

**235.03 Process Type.** Special Event Permit requests shall be processed using the following procedures:

- A. Type I. A Special Event Permit request for two (2) or fewer events in a calendar year on a parcel or tract shall be reviewed by means of a Type I procedure, per Section 115.05.
- B. Type III. Special events meeting the parameters below shall be reviewed by means of a Type III procedure, per Section 115.07:
  - 1. Three (3) or more events in a calendar year on a parcel or tract.
  - 2. In Recreation-Residential (RR-2) and Rural-Residential (RR5) Zones, a Special Event Permit request exceeding the threshold for a Type III Home Occupation Permit.
  - 3. A Special Event Permit request exceeding the criteria contained in Section 235.05(A).

**235.04 Application Requirements.** All applications for a Special Event Permit shall include the following:

- A. A written narrative demonstrating compliance with Section 235.05, including, but not limited to:
  - 1. Description of event(s)
  - 2. Frequency of event(s)

3. Duration of event(s)
4. Expected number of attendees
5. Expected noise
6. Proposed lighting
7. Description of access to property and event site(s)
8. Parking and circulation plan
9. Fire safety measures
10. Sanitary and solid waste disposal plan
11. Description of other permits required at the local, state or federal level
12. Signs, if proposed

B. A site plan, including but not limited to:

1. Areas and structures to be used for the event(s)
2. Setbacks from property lines for all structures, parking areas and gathering areas associated with the event(s)
3. Parking and gathering areas
4. On-site vehicle circulation

### **235.05 Approval Criteria**

A. Type I Special Event Permit. The following criteria shall be met for two (2) or fewer events in a calendar year:

1. Maximum Number of Attendees. No more than 400 attendees are permitted per event.
2. Noise. All noise associated with the event(s), amplified or unamplified, shall be restricted to the hours of 7:00am to 10:00pm.
3. Lighting. Exterior lighting for the event(s) shall not project onto adjoining property.
4. Dust Control. Dust abatement in front of residences located on gravel roads used to access the event property shall be required during the event(s).
5. Access. Access to the property and event site shall be provided and/or developed in conformance with the standards listed in Chapter 320 – *Transportation Standards*.
6. Parking and Circulation Plan. A parking and circulation plan shall include:
  - a. One (1) parking space per three (3) attendees
  - b. The specific locations where vehicles can be lawfully parked and which will be available for parking
  - c. If off-site parking is proposed, a signed statement of consent from the owner(s) of the property(ies) to be utilized, including the terms of usage.
7. Emergency & Fire Protection Plans. Emergency and fire protection plans shall be submitted with the Special Event Permit application. Documentation of consultation with the applicable fire authority is required. Fire protection and life safety measures shall comply with all local, state and federal requirements. The County shall review the plan to determine consistency with these requirements and to determine if sufficient life safety and fire protection measures are in place.

8. Sanitary and Solid Waste Disposal Plan.

- a. Toilet facilities shall be portable with available hand-sanitizing or hand-washing facilities. Use of a dwelling's on-site septic facilities is not allowed for an event, except by residents or overnight guests of the dwelling.
- b. All solid waste shall be properly disposed of, in accordance with Oregon Department of Environmental Quality standards.

9. Signs. All signs must meet criteria contained in Chapter 730.

10. Setbacks. Structures and gathering areas associated with the event(s) shall comply with standards contained in Chapter 340 – *Development Standards*. Overnight camping and parking areas shall not be located within 100 feet of a residence not located on the subject property.

11. Other Permits. The event(s) and all associated permanent and temporary structures or facilities associated with the event(s) are subject to fire, health and life safety requirements, and shall comply with all requirements of Oregon Specialty Building Codes.

B. Type III Special Event Permit. In addition to the requirements in subsection (A) above, the following criteria shall be met:

1. Maximum Number of Attendees. No more than 3000 attendees are permitted per event. An event with more than 3000 attendees is subject to the State's Mass Gathering Statute (ORS 433.735 - 433.770).
2. Compliance with Chapter 210.
3. The event(s) and associated permanent and temporary structures will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.
4. The event(s) and associated permanent and temporary structures will not materially alter the stability of the overall land use pattern of the area.
5. If a Special Event Permit request exceeds the criteria contained in Section 235.05(A) above, an explanation of why the criteria cannot be met.

## Chapter 240 VARIANCES

- 240.01 Purpose**
- 240.02 Applicability**
- 240.03 Process Type**
- 240.04 Approval Criteria**

**240.01 Purpose.** The purpose of this Chapter is to provide standards for the granting of variances from the applicable requirements of this Ordinance when it can be shown that, owing to special and unusual circumstances related to a specific property, the literal interpretation of the provisions of this Ordinance would cause undue or unnecessary hardship.

### **240.02 Applicability**

- A. Appropriate requests. An applicant may seek a variance from any numerical development standard (e.g., minimum lot size, setbacks, height, minimum parking ratios, Transportation System Plan standards, in this Ordinance) as it applies to a specific property.
- B. Prohibited requests. An applicant may not seek a variance:
  - 1. For a use that is not otherwise permitted by right or conditionally in the underlying zone; or
  - 2. To create new lots that are sub-standard in size except when processed with a concurrent land division per Chapter 270, Chapter 280, or Chapter 290.

**240.03 Process Type.** Variances shall be processed by means of a Type III procedure, as governed by Section 115.07, subject to the approval criteria in Section 240.04.

### **240.04 Approval Criteria**

- A. The Decision Making Body shall approve, approve with conditions, or deny a request for a variance upon a finding that all of the following approval criteria are met:
  - 1. The variance would not be materially detrimental to the purposes of this Ordinance, to any other applicable policies and standards, or to other properties in the same zone or vicinity.
  - 2. There are exceptional or extraordinary circumstances that are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which do not apply generally to other properties in the same zone or vicinity.
  - 3. The variance is necessary for the preservation of a property right of the applicant, to be substantially the same as those of owners of other property in the same zone or vicinity.
  - 4. Existing physical and natural systems such as, but not limited to, traffic, drainage, dramatic land form or parks, will not be affected adversely any more than would occur if no variance was granted.



5. The hardship is not self-imposed and the variance requested is the minimum needed to alleviate the hardship.
- B. If more than one variance is being requested, the cumulative effect of the variances will not result in a project that is inconsistent with the overall purpose of the underlying zoning district.

## **Chapter 245 MODIFICATIONS**

- 245.01 Purpose**
- 245.02 Applicability**
- 245.03 Process Type**
- 245.04 Determination of a Modification Type**
- 245.05 Approval Criteria**
- 245.06 Conditions of Approval**

**245.01 Purpose.** The purpose of this Chapter is to provide standards for granting modifications to land use applications approved by this Ordinance.

### **245.02 Applicability**

- A. Appropriate requests. An applicant may seek a modification to any land use decision or application which has been submitted to the Planning Department.
- B. Prohibited requests. An applicant may not seek a modification for a use that is not otherwise permitted by right or conditionally in the underlying zone.

### **245.03 Process Type.** Modifications shall be processed by the following means:

- A. The modification of an existing Type I or Type II land use decision or application shall be reviewed by means of a Type I procedure, per Section 115.05. Criteria listed in the applicable land use zone or overlay zones will apply, in addition to approval criteria listed in Section 245.05.
- B. The minor modification of an existing or re-activated Type III request shall be reviewed by means of a Type I procedure, per Section 115.05. Criteria listed in the applicable land use zone or overlay zones will apply, in addition to approval criteria listed in Section 245.05.
- C. The major modification of an existing or re-activated Type III request shall be reviewed by means of a Type III procedure, per Section 115.07. Criteria listed in the applicable land use zone or overlay zones will apply, in addition to approval criteria listed in Section 245.05.
- D. The modification of an existing Type IV land use decision or application shall be reviewed by means of a Type IV procedure, per Section 115.08. Criteria listed in the applicable land use zone or overlay zones will apply, in addition to approval criteria listed in Section 245.05.

### **245.04 Determination of Modification Type for Conditional Use Permits**

- A. Determination request. The applicant may request a determination of the review type for a modification of an existing conditional use by providing the Planning Director with the proposed modified conditional use site plan and a narrative addressing the proposed changes as listed below:

1. Major Modification. The Planning Director shall determine that a major modification has resulted if there has been a change in the land use, or an increase in the conditional use activity by 20% or more.
2. Minor modification. A modification of an existing conditional use will be deemed a minor modification if it does not meet the criteria contained in Section 210.04 (A)(1).

## **245.05 Approval Criteria**

### **A. Type I modification requests.**

1. A minor modification of an existing Type I or Type II request shall be approved, approved with conditions, or denied based on compliance with the following approval criteria:
  - a. The proposed development is in compliance with all applicable requirements of this Ordinance; and
  - b. The modification is not a major modification as defined in Section 245.04(A)(1).
2. A minor modification of an existing or re-activated Type III request shall be approved, approved with conditions, or denied based on compliance with the following approval criteria:
  - a. The proposed development is in compliance with all applicable requirements of this Ordinance; and
  - b. The modification is not a major modification as defined in Section 245.04(A)(1).

### **B. Type III modification requests. A major modification of an existing or re-activated Type III request may be approved, approved with conditions, or denied based on compliance with the following approval criteria:**

1. The proposal will be consistent with the Comprehensive Plan and objectives of this Ordinance and other applicable policies of the County.
2. Taking into account location, size, design and operating characteristics, the proposal will have a minimal adverse impact on the (1) livability, (2) value, and (3) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
3. All required public facilities have adequate capacity to serve the proposal.
4. The proposal will not result in emissions that damage the air or water quality of the area. Documentation is required to demonstrate that required state and federal discharge permits have been obtained.
5. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrant.
6. The proposal will preserve assets of particular interest to the community.

- C. Type IV modification requests. A major modification of an existing Type IV request may be approved, approved with conditions, or denied based on compliance with the following approval criteria:
1. The proposal will be consistent with the Comprehensive Plan and objectives of this Ordinance and other applicable policies of the County.
  2. Taking into account location, size, design and operating characteristics, the proposal will have a minimal adverse impact on the (1) livability, (2) value, and (3) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
  3. All required public facilities have adequate capacity to serve the proposal.
  4. The proposal will not result in emissions that damage the air or water quality of the area. Documentation is required to demonstrate that required state and federal discharge permits have been obtained.
  5. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrant.
  6. The proposal will preserve assets of particular interest to the community.

**245.06 Conditions of Approval.** In permitting a new, modified or re-activated Type III request, the Decision Making Body may impose additional conditions that the Decision Making Body considers necessary to protect the best interests of the surrounding area or the County as a whole.

## Chapter 250 TEMPORARY PERMITS

### 250.01 Purpose

### 250.02 Definition

### 250.03 Temporary Uses Requiring Permits

**250.01 Purpose.** The purpose of this Chapter is to provide standards and procedures under which temporary uses may be permitted.

**250.02 Definition.** Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses may include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands.

**250.03 Temporary Uses Requiring Permits.** There are three types of temporary uses which require permit approval:

- A. **Seasonal and Special Events.** These types of uses occur only once in a calendar year and for no longer a period than 30 days. Prior to permit expiration, the applicant may apply for up to an additional 30 days. Using the Type II procedure under Section 115.06, the Planning Director shall approve, approve with conditions, or deny a temporary use permit based on findings that all of the following criteria are satisfied:
1. The use is permitted in the underlying land use zone and does not violate any conditions of approval for the property from previous permits (e.g., prior development permit approval).
  2. The applicant has proof of the property owner's permission to place the use on their property.
  3. No parking will be utilized by customers and employees of the temporary use that is needed by the property owner to meet the minimum parking requirement under Chapter 330.
  4. The use provides adequate vision clearance, as required by Chapter 320 and the Transportation System Plan, and shall not obstruct pedestrian access on public streets.
  5. Ingress and egress are safe and adequate when combined with the other uses of the property, as required by Chapter 320 and the Transportation System Plan. This may require the applicant to provide traffic control, signage, etc., as necessary for safety.
  6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the zone do not.
  7. A sewer or septic system and water adequately serve the use, or provisions have been made to meet these requirements according to Department of Health Services standards. (The applicant is responsible for obtaining any related permits.)

8. The applicant/property owner will provide adequate refuse storage and disposal for the proposed use(s).
  9. If food service is provided, the service meets the requirements according to Department of Health Services Standards and may require additional permits. (The applicant is responsible for obtaining any related permits.)
  10. Temporary structures including tents, trailers, chemical toilet facilities and other structures customarily erected or sited for a temporary use shall not be located closer than 10 feet to any property boundary, and shall be removed within 5 days of the end of the event.
  11. The applicant/property owner shall not make any permanent physical alterations to or on the real property that is to be the site of the temporary event or use.
  12. The applicant/property owner will provide for the health and safety of those involved in the temporary use while on their property.
  13. The property owner assumes all liability as to activities associated with the proposed use on their property.
  14. The permit may require signatures from the County Sheriff's Office, County Health Department, County Road Department, Fire District and Planning Department among others.
  15. To comply with health standards, two restrooms are required for every 200 people attending the event. Where public restrooms are not adequate, the applicant shall provide additional portable toilets.
- B. Temporary Sales Office or Model Home.** Using a Type II procedure under Section 115.06, the Planning Director may approve, approve with conditions, or deny an application for the use of any real property within the County as a temporary sales office, offices for the purpose of facilitating the sale of real property, or a model home in any subdivision or tract of land within the County, but for no other purpose, based on the following criteria:
1. Temporary sales office:
    - a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold.
    - b. The property to be used for a temporary sales office shall not be permanently improved for that purpose.
  2. Model home:
    - a. The model home shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated.
    - b. The model home shall be designed as a permanent structure that meets all relevant requirements of this Code.
- C. Temporary Building.** Using a Type II procedure under Section 115.06, the Planning Director may approve, approve with conditions, or deny an application for a temporary trailer or prefabricated

building for use on any real commercial or industrial property within the County as temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on the following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located.
2. The primary use on the property to be used for a temporary trailer is already developed.
3. Ingress and egress are safe and adequate when combined with the other uses of the property, as required by Chapter 320 and the Transportation System Plan.
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 330.
5. The use will not result in vehicular congestion on streets.
6. The use will pose no hazard to pedestrians in the area of the use.
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the zone do not.
8. The building complies with applicable building codes.
9. The use can be adequately served by a sewer or septic system and water can adequately serve the use, if applicable. (The applicant is responsible for obtaining any related permits).
10. The length of time that the temporary building will be used does not exceed 12 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.
11. Placement of the temporary building meets all setbacks as specified in Chapter 340.

**Chapter 260**  
**MAP, TEXT AND PLAN AMENDMENTS**

- 260.01 Purpose**
- 260.02 Authorization to Initiate Amendments**
- 260.03 Typographical Errors**
- 260.04 Legislative Text and Zoning Map Amendments**
- 260.05 Quasi-Judicial Zoning Map Amendments**
- 260.06 Combined Quasi-Judicial Comprehensive Plan Map and Zoning Amendments**
- 260.07 Approval Criteria**
- 260.08 Environmental Impact**
- 260.09 Record of Amendments**

**260.01 Purpose.** The purpose of this Chapter is to set forth the standards and process governing legislative and quasi-judicial amendments to this Ordinance, Zoning Map, Comprehensive Land Use Plan and Comprehensive Land Use Plan Map. These will be referred to as “*Zoning Map Amendments*”, “*Text Amendments*”, and “*Plan Amendments*”. It is recognized that such amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, and/or to address changes in state statute, case law or other regulations.

**260.02 Authorization to Initiate Amendments.** An amendment to the text of this Ordinance or Comprehensive Land Use Plan, or to the zoning map or Comprehensive Land Use Plan Map may be initiated by the Board of Commissioners or Planning Commission, or by application of a property owner.

**260.03 Typographical Errors.** Typographical errors may be corrected by means of a Type I procedure, as governed by Section 115.04. A log shall be kept identifying all corrections, which shall be provided to the Baker County Planning Commission for review on an annual basis.

**260.04 Legislative Text and Zoning Map Amendments.** These amendments shall be reviewed by means of a Type IV procedure, as governed by Section 115.07.

- A. Definition: A Legislative Amendment is one that applies broadly and thus, requires the Board of Commissioners to approve the change. By this definition, all amendments to the text of this Ordinance are legislative in nature, with the exception of typographical errors. Modifications of the zoning map that affect a class of property owners as opposed to a single property owner are also legislative in nature.
- B. Process: Legislative Text and Zoning Map Amendments shall be undertaken by means of a Type IV procedure, as governed by Section 115.08 of this Ordinance and the approval criteria in Section 260.07(A).

**260.05 Quasi-Judicial Zoning Map Amendments**

- A. Definition: A Quasi-Judicial Zoning Map Amendment is one that affects a single property owner and will not have an impact upon other property owners in the same class. By this definition, only Zoning Map Amendments can be quasi-judicial.



- B. Process: Quasi-judicial Zoning Map Amendments do not require a concurrent change of the underlying Comprehensive Plan Map. These amendments shall be reviewed by means of a Type III procedure, as governed by Section 115.07, using standards of approval contained in Section 260.07(B).

## **260.06 Combined Quasi-Judicial Comprehensive Plan Map and Zoning Amendments**

- A. Definition: A zone map change that does require a concurrent amendment of the underlying Comprehensive Plan Map.
- B. Process: Combined Quasi-Judicial Comprehensive Plan Map and Zoning Amendments shall be reviewed by means of a Type IV procedure, as governed by Section 115.08, except that the Planning Commission will only make a recommendation to the Board of Commissioners to approve, approve with conditions, or deny the application. The Board of Commissioners will then hold a hearing, as governed by 115.07(D), to render the final decision on the combined application, using the approval criteria in Section 260.07(C).

## **260.07 Approval Criteria**

- A. Legislative Text and Zoning Map Amendments. The Board of Commissioners may approve Legislative Text and Zoning Map Amendments upon findings that the proposed amendment complies with the following approval Criteria:
1. The amendment complies with all applicable policies of the Comprehensive Plan; and
  2. The amendment does not create a conflict with other provisions of this Ordinance or other ordinances or regulations.
- B. Quasi-Judicial Zoning Map Amendment. The Planning Commission shall approve, approve with conditions, or deny a request for a quasi-judicial Zoning Map Amendment based on the following approval criteria:
1. Demonstration of compliance with all applicable policies of the Comprehensive Plan.
  2. Demonstration of compliance with all applicable standards of this code or other applicable implementing Ordinance.
  3. Assessment of the socioeconomic impacts of the proposed change as demonstrated by completion of an impact report described in Section 260.08.
- C. Combined Quasi-Judicial Comprehensive Plan Map and Zoning Map Amendment. Upon recommendation of the Planning Commission, the Board of Commissioners shall approve, approve with conditions, or deny a request for a combined quasi-judicial Comprehensive Plan Map and Zoning Map Amendment based on the following approval criteria:
1. Demonstration of compliance with all applicable policies of the Comprehensive Plan.

2. Demonstration of compliance with all applicable standards of this Ordinance or other applicable implementing Ordinance.
3. Assessment of the socioeconomic impacts of the proposed change as demonstrated by completion of an impact report described in Section 260.08.

**260.08 Impacts.** An application subject to Sections 260.07(B) or (C) shall include a narrative addressing the potential impact of the proposal upon the following items:

- A. Economy. A description of the economic impact of the proposed development upon schools, fire districts, law enforcement, water districts, sewer districts, or any other jurisdiction as well as consideration of the proposed project's impact upon the tax rate of the tax code area in which the proposed project is to be located.
- B. Transportation. A description of the roads or routes of transportation in reference to right-of-way width, roadway width, access to existing roads, and the ability of the existing roads to accommodate the anticipated amount of travel that will be generated by the proposed development.
- C. Infrastructure. A description of the methods by which basic services, including water, sanitary waste treatment and stormwater collection will be provided on the site.
- D. Proximity of other uses and activities. A description of the impact of the proposed development upon surrounding uses and activities, including existing zones and uses permitted within those zones.
- E. Public need. A description of how the public will benefit from the proposed development and a demonstration of public need for the proposed project.

**260.09 Record of Amendments.** After approval of a Map, Text, or Plan Amendment, the Planning Department shall maintain records of the Amendment.

**Chapter 270**  
**PROPERTY LINE ADJUSTMENTS**

- 270.01 Purpose**
- 270.02 Approval Process**
- 270.03 Application Submission Requirements**
- 270.04 Approval Criteria**
- 270.05 Exemptions and Variances**
- 270.06 Recording Property Line Adjustments**

**270.01 Purpose.** The purpose of this Chapter is to provide the rules, regulations, and criteria governing approval of property line adjustments.

**270.02 Approval Process**

- A. Decision-making process. Property line adjustments shall be reviewed by means of a Type I procedure, as governed by Chapter 115, using the approval criteria in Section 270.04.
- B. Time limit on approval. The property line adjustment approval by the Planning Director shall be effective for a period of one year from the date of approval.
- C. Lapsing of approval. The property line adjustment approval by the Planning Director shall lapse if:
  - 1. The property line adjustment has not been recorded within one year of approval or has been improperly recorded with the Baker County Clerk; or
  - 2. The final recording is a departure from the approved plan.
- D. Extension. Upon written request by the applicant and payment of the required fee, the Planning Director shall grant an extension of the approval period not to exceed one year by means of a Type I procedure as governed by Chapter 115, providing that:
  - 1. No changes are made on the original plan as approved by the Planning Director.
  - 2. The applicant can show intent to record the approved line adjustment within the one-year extension period; and
  - 3. No changes to the Code have been made impacting life, safety or issues that were not accounted for in the decision.

**270.03 Application Submission Requirements.** The following information shall be provided:

- A. Property Line Adjustment Form (one copy) as provided by the Planning Director, including the following information as a minimum:
  - 1. Applicant's name and address.
  - 2. Name and address of all property owners of all lots or parcels to be adjusted.

3. Legal descriptions, tax lot numbers, zoning, tax reference numbers, and sizes of all lots or parcels to be adjusted.
  4. Proposed final size of all lots or parcels to be adjusted.
  5. “*Statement of Understanding*” as stated on the form, read and initialed by the applicant.
  6. Signatures/written authorizations of all property owners involved.
- B. Documentation of ownership such as a certified judicial transfer or deed (one copy).
- C. Preliminary plan drawn to scale with sufficient detail that clearly illustrates the conditions of the site, illustrating the proposed property line adjustment, including the parent parcel, the parcel remnant being transferred and the receiving parcel. The preliminary plan shall include as a minimum:
1. Total square footage (or acreage) of each of the lots or parcels to be adjusted.
  2. Property line dimensions (or acreage) of each of the newly-configured lots or parcels.
  3. Setback dimensions of existing buildings from current and proposed property lines.
- D. Preliminary plan reduced to one 8-1/2” X 11” copy, plus one digital copy.
- E. Filing fee.

#### **270.04 Approval Criteria**

- A. Approval criteria. The Planning Director shall approve or deny a request for a property line adjustment in writing based on whether the following criteria are satisfied:
1. An additional parcel is not created by the property line adjustment.
  2. A property line adjustment may be made between two abutting properties only if:
    - a. Both of the abutting properties are at least as large as the minimum lot or parcel size for the applicable zone after the relocation or elimination of the common property line; or
    - b. One or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the relocation or elimination of the common property line, and after the elimination or relocation of the line, one or both properties are as large or larger than the minimum lot or parcel size for the applicable zone; or
    - c. Both abutting properties are smaller than the minimum lot or parcel size for the applicable zone before and after the relocation or elimination of the common property line.
  3. Any primary or accessory structure(s) or other site development on either of the newly-reconfigured lots or parcels continues to comply with the applicable setbacks in the underlying zone unless a concurrent variance is sought, per Section 270.05(B).

4. Each of the newly-reconfigured lots or parcels shall front and have access to an approved public or private road and shall have road frontage satisfying the standards listed Section 340.02(B).
5. Where a common drive is to be provided to serve both lots, a reciprocal easement to ensure access and maintenance rights shall be recorded with the approved property line adjustment. Such an access way shall be subject to the standards set forth in Chapter 320. A line adjustment shall have no effect on existing easements.
6. In the Exclusive Farm Use zone, a property line adjustment may not be approved that separates a temporary hardship dwelling, relative farm help dwelling, home occupation or processing facility from the parcel on which the primary residential or other primary use exists.

#### **270.05 Exemptions and Variances**

- A. Exemptions from dedications. A property line adjustment is not considered a development action for the purposes of determining whether a flood plain or right-of-way dedication is required.
- B. Variance to development standards. An applicant may request a concurrent variance to the standards of the underlying zone as they apply to the newly-reconfigured lots or parcels in accordance with Chapter 240.

#### **270.06 Recording Property Line Adjustments**

- A. Upon the Planning Director's approval of the proposed property line adjustment, the applicant shall have a legal survey of the newly-reconfigured lots or parcels prepared, if required. Property line adjustments, where all parcels are greater than 10 acres, shall be exempt from the requirement to survey if the adjusted property line can be described by aliquot part or in some manner that a surveyor could definitely locate the adjusted property boundary. If this is not possible, a survey is required. This exemption does not waive the requirement that a legal description sufficient for re-mapping purposes be prepared by a surveyor licensed by the State of Oregon.
- B. Upon determination that the requirements of the property line adjustment have been met, the Planning Director shall advise the applicant by signature and date that the property line adjustment is approved.
- C. No property line adjustment shall be recorded with the County Clerk unless all ad valorem taxes, interest, and penalties imposed on land disqualified for any special assessments, fees or other charges required by law to be placed upon the tax roll have been paid which have become a lien upon the land or which will become a lien during the tax year.
- D. After signature by the County Treasurer and the Planning Director, the applicant shall file the necessary documents with the County Clerk for recording. The recording shall describe conveyances conforming to the approved line adjustment, and shall include the following documents:
  1. Original Property Line Adjustment application form;
  2. New deeds for each of the newly configured lots or parcels that contain the names of the parties, the description of the adjusted line, references to the original recorded documents and signatures of all parties with proper acknowledgement; and

3. A map or maps of the newly configured lots or parcels locating the proposed line adjustment in relation to adjacent subdivisions, partitions, other units of land and roadways. The plot plan or map shall identify the existing boundary lines of the lots or parcels affected by the line adjustment and the approximate location for the proposed adjustment line. The plot plan or map shall also show the approximate location of all structures within ten feet of the proposed adjusted line, and
4. A copy of an easement for access (if necessary).

## Chapter 280 PARTITIONS

- 280.01 Purpose**
- 280.02 General Provisions**
- 280.03 Approval Process**
- 280.04 Preliminary Plan Submission Requirements**
- 280.05 Preliminary Plan Approval Criteria**
- 280.06 Final Plat Submission and Approval Requirements**
- 280.07 County Acceptance of Dedicated Land**
- 280.08 Recording Partition Plats**
- 280.09 Re-platting Procedures**

**280.01 Purpose.** The purpose of this Chapter is to provide the rules, regulations, and standards governing the approval of partitions.

### **280.02 General Provisions**

- A. Applicant. The applicant of a partition proposal shall be the recorded owner(s) or contract purchaser(s) of the property or an agent authorized in writing by the owner(s).
- B. Conformance with state statute. Any application for a partition shall be in conformity with all state regulations set forth in ORS 92.
- C. Prohibition on the sale of parcels. No lot or parcel to be created through the partitioning process shall be sold until approval and filing of the final partition plat.
- D. Future re-division. When partitioning a parcel of land into parcels that exceed the minimum parcel size, the Planning Director may recommend that the parcels be of such size and shape to facilitate future re-partitioning in accordance with the development standards in the underlying zone.

### **280.03 Approval Process**

- A. Types of partitions. There are two types of partitions, both resulting in the creation of two or three parcels within a calendar year, per the definitions in ORS 92. A major partition contains a new public or private roadway as part of the partition plat whereas a minor partition does not. Major and minor partitions are subject to the same development standards except that with a major partition, the applicant must demonstrate that the proposed public or private roadway meets the County road standards found in Chapter 320.
- B. Decision-making process. Minor and major partitions are subject to the same two-step review process:
  1. The preliminary plan shall be approved by the Planning Director by means of a Type II procedure, as governed by Section 115.06, using the approval criteria in Section 280.05.
  2. The final plat shall be approved by the Planning Director by means of a Type I procedure as governed by Section 115.05, using the approval criteria in Section 280.06.

- C. Time limit on approval. The final partition plat approval by the Planning Director shall be effective for a period of two years from the date of approval.
- D. Lapsing of approval. The partition approval by the Planning Director shall lapse if:
1. The approved final partition plat has not been recorded within two years of approval or has been improperly recorded with the Baker County Clerk; or
  2. The final recording is a departure from the approved final plat.
- E. Extension. Upon written request by the applicant and payment of the required fee, the Planning Director shall grant an extension of the approval period not to exceed one year by means of a Type I procedure, as governed by Section 115.05, providing that:
1. No changes are made on the approved final plat as approved by the Planning Director.
  2. The applicant can show intent to record the approved partition within the one-year extension period; and
  3. There have been no changes made to the Code impacting life, safety or sanitation issues that were not accounted for in the decision.

**280.04 Preliminary Plan Submission Requirements.** The following information shall be provided:

- A. Application form provided by the Planning Director (one copy).
- B. All owners' signature(s)/written authorization as provided on the application form (one copy).
- C. Documentation of ownership such as a judicial transfer or deed (one copy).
- D. The following information shall be shown on the tentative plan or be provided in accompanying narrative, tabular or graphic materials:
  1. General information:
    - a. Proposed name of the partition, if any.
    - b. Names, addresses, telephone and facsimile numbers or e-mail addresses of all owners of record, authorized agent(s) or representative(s), engineer or surveyor, and any assumed business names filed or to be filed with the Secretary of State Corporation Division by the applicant.
    - c. Site plans conforming to the application requirements of Section 310.04(A), including appropriate identification of the proposed site plan as a tentative plan for a partition.
    - d. Location and partition site designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relationship to existing plats, other properties and streets.



2. Information related to existing conditions:

- a. Locations, names and widths of existing improved and unimproved streets and access corridors in the proposed partition.
- b. Location of any existing features, such as section lines and corners.
- c. Location of existing structures, irrigation canals and ditches, pipelines and railroads.
- d. Location of creeks and water courses.
- e. Location, width and use or purpose of any existing easement or right-of-way for utilities, bikeways, trails and access corridors within and adjacent to the proposed partition.
- f. Existing sewer lines, septic system drainage fields, water mains, wells, culverts and other underground and overhead utilities within and adjacent to the proposed partition.
- g. Zoning classification of the land and Comprehensive Plan map designation.

3. Information related to the proposed partition:

- a. In a major partition, locations, name, width, typical improvements, bridge(s) and culvert(s).
- b. Locations, widths, and purposes of all proposed easements for access, utilities, trails or railroads, and relationship to all existing or potential future parcels adjacent to the proposed partition. The Planning Director shall examine all adjacent parcels for potential future development, and require easements to be indicated that may be needed for future access. Easements shall be in conformance with the requirements of the Transportation System Plan and Section 320.03(C). Any proposed easements necessary for future access shall be indicated on the preliminary and final plats. Location, approximate area, and dimensions of each parcel and proposed parcel numbers within the partition.
- c. When applicable, source, method and preliminary plans for domestic and other water supplies, sewage disposal, solid waste disposal, and all private utilities such as electricity, natural gas and telephone. The final plat shall identify that sewage disposal be provided by a DEQ approved sanitary sewage disposal system for parcels greater than two acres.
- d. When applicable, draft of proposed restrictions and covenants affecting the partitioned land.

E. Preliminary plat reduced to one 8½" X 11" copy, plus one digital copy.

F. Filing fee.

### **280.05 Preliminary Plan Approval Criteria**

A. Approval criteria. The Planning Director shall approve, approve with conditions or deny a request for a preliminary partition plan in writing based on findings regarding whether the following criteria are satisfied. The Planning Director may also refer this decision to the Planning Commission if he or she determines the proposal may have adverse impacts on adjoining property.

1. The proposed preliminary partition plat complies with all statutory and ordinance requirements and regulations.
  2. There are adequate public facilities and/or on-site facilities to serve the partition. Sanitary sewage disposal facilities shall be available to the property line of each lot or parcel that is two acres or less, or, as an alternative, each lot or parcel shall be approved for sub-surface sewage disposal. The final plat shall identify that sewage disposal be provided by a DEQ approved sanitary sewage disposal system for parcels greater than two acres.
  3. All improvements meet County, state, and federal standards.
  4. All proposed parcels conform to the specific requirements below:
    - a. All newly-created parcels must conform to the minimum parcel size and parcel dimensions contained in the underlying zone unless a concurrent variance is sought, per Section 280.05(C).
    - b. Any existing primary or accessory structure(s) or site development retained on any newly-created parcel within the partition must continue to comply with the applicable setbacks in the underlying zone unless a concurrent variance is sought, per Section 280.05(C).
  5. Each of the newly-reconfigured lots or parcels shall front and have access to an approved public or private road and shall have road frontage satisfying the standards listed in Section 340.02(B).
  6. All road easements created for the purpose of dividing land and/or creating access to said land shall be no less than ±60 feet and shall be recorded with the County Clerk.
  7. In a major partition, where a common drive is to be provided to serve two or more parcels, a reciprocal easement shall be recorded with the partition to ensure access and maintenance rights. Such an access way shall be subject to the standards set forth in Chapter 320.
  8. In a major partition, the proposed roadway must meet the development standards contained in Chapter 320. If the facility is to be public, a dedication of the right-of-way must be included in the site plan. If the facility is to be private, the street must be contained in a separate tract.
  9. In the Exclusive Farm Use zone, a partition may not be approved that separates a temporary hardship dwelling, relative farm help dwelling, home occupation or processing facility from the parcel on which the primary residential or other primary use exists.
- B. Conditions of approval. The Planning Director may attach such conditions as are necessary to carry out the Comprehensive Plan and other applicable ordinances and regulations.
- C. Variance to development standards. An applicant may request a concurrent variance(s) to the standards of the underlying zone as they apply to the newly-created parcels within the partition in accordance with Chapter 240.

## **280.06 Final Plat Submission and Approval Requirements**

- A. Submission requirements. As part of the Type I review of the final plat, the applicant must submit two copies of the partition plat prepared by an Oregon Registered Land Surveyor and any additional

documentation or narrative required by the Planning Director in the preliminary plat approval. The final plat shall also incorporate all conditions of approval imposed by the Planning Director in the preliminary plat approval. Specific submission requirements include:

1. Names of the partitioner, owner, mortgagee, if any, and the registered professional surveyor preparing the plat.
2. Legal description of the new parcels must be prepared and incorporated into a deed for each new parcel. All easements of record and easements provided must be listed in the appropriate deed, along with legal descriptions and any limitations on easements.
3. The surveyor must prepare a narrative per the requirements of ORS 209.250.
4. The plat shall contain the Surveyor's Affidavit by the surveyor who surveyed the partitioned parcel that the land represented on the plat has been correctly surveyed and marked with the proper monuments as provided by ORS 92.060. The Surveyor's Affidavit should also indicate the initial point of the survey, and give the dimensions and kind of such monument and its reference to a corner established by the U.S. Geological Survey or give two or more objects for identifying its location.
5. Easements for water conveyance structures, i.e., ditches or pipelines, must be a minimum of 30' in width, 15' in each direction from the banks of the ditch or the center of the pipeline. Easements for diversion or storage structures, and for access to the structures, must be of sufficient width to allow for passage of heavy equipment to repair and maintain the structures. All easements for conveyance and storage structures and for points of diversion shall grant access, the ability to repair and maintain the structures, and to regulate water flow, and shall be for the benefit of persons down-stream of the subject property having legal water rights involving use of any or all of the structures.
6. The surveyor shall prepare a signature page, which shall contain a space for:
  - a. A declaration stating that the applicant has caused the land represented by the deed descriptions to be split into two or three parcels as required by laws governing partitions. If the applicant is not the fee owner of the property, then the fee owner also must execute a declaration for the purpose of consenting to the property being partitioned.
  - b. The signature, title and date for the County Surveyor, County Planning Director, and County Treasurer. Signatures shall be obtained in the above sequence.

B. Exemption from legal survey.

Partitions where all parcels are greater than 10 acres shall be exempt from the requirement to survey if the parcels can be described by aliquot part or in some manner that a surveyor could definitely locate the boundary of the parcel. If this is not possible, a survey will be required. The exemption does not waive the requirement that a final plat be prepared by a surveyor licensed by the State of Oregon.

C. Approval criteria. The Planning Director and County Surveyor shall review and approve the final partition plat based on the findings that the final plat complies with the preliminary plat approval and all conditions of approval have been satisfied.

- D. Per ORS 92.100(1)(E), the Board of Commissioners may officially delegate the authority to approve subdivision plats to the Planning Director when no public dedication of land or right(s)-of-way is required.

### **280.07 County Acceptance of Dedicated Land**

- A. Acceptance of dedication by the Board of Commissioners. The Board of Commissioners shall accept the proposed right-of-way dedication for a public street in a major partition prior to recording the partition with the Baker County Clerk.
- B. Acceptance of public easements by the Board of Commissioners. The Board of Commissioners shall accept all public easements shown for dedication on partition plats.

### **280.08 Recording Partition Plats**

- A. Recording requirements. The applicant shall record the approved partition with the Baker County Clerk within 30 days of obtaining all required signatures.
- B. Time limit. The applicant shall submit the copy of the recorded survey plat to the Planning Department within 15 days of recording for incorporation into the file. No building permits for development on newly-created parcels within the partition shall be issued by the County until this documentation is received.
- C. No partition plat shall be recorded with the County Clerk unless all ad valorem taxes, interest and penalties imposed on land disqualified for any special assessments, fees or other charges required by law to be placed upon the tax roll have been paid, which have become a lien upon the land or which will become a lien during the tax year.

### **280.09 Re-platting Procedures.** Re-platting shall be required in existing recorded partitions rather than using partitioning procedures.

- A. A re-plat will comply with all the provisions of the partition standards for a tentative plan, plat and improvements.
- B. If the re-platted property is within an established partition with streets or roads, and utilities in place on or adjacent to the property, then the improvement requirements may be waived by the Planning Director.
- C. In the re-platting of a partition, the provision that the partition may only create three new parcels is applicable, but parcels will be consecutively numbered even though the numbers may be greater than three. (For example, Partition 1 has parcels 1 and 2, then parcel 3 is divided into 3 parcels with numbers 3, 4 & 5. Later parcel 2 is divided with parcel numbers 2, 6 & 7 and so on.)
- D. Re-platting of partitions must comply with the requirements of ORS 92.180 to ORS 92.190.

## Chapter 290 SUBDIVISIONS

- 290.01 Purpose**
- 290.02 General Provisions**
- 290.03 Approval Process**
- 290.04 Preliminary Plat Submission Requirements**
- 290.05 Preliminary Plat Approval Criteria**
- 290.06 Required Improvements**
- 290.07 Improvement Standards**
- 290.08 Improvement Agreement and Bond**
- 290.09 Final Plat Submission and Approval Requirements**
- 290.10 County Acceptance of Dedicated Land**
- 290.11 Recording Subdivision Plats**

**290.01 Purpose.** The purpose of this Chapter is to provide the rules, regulations and standards governing the approval of subdivisions.

### **290.02 General Provisions**

- A. Conformance with state statute. Any application for a subdivision shall be in conformity with all state regulations set forth in ORS 92.
- B. Prohibition on the sale of lots. No lot or parcel to be created through the subdivision process shall be sold until approval and filing of the final subdivision plat.
- C. Future re-division. When subdividing tracts of land into lots that exceed the minimum lot size, the Planning Director may require that the lots be of such size and shape to facilitate future re-division complete with future road access, in accordance with the development standards in the underlying zone.
- D. Lot averaging. Lot size may be averaged to allow lots less than the minimum lot size allowed in the underlying zone as long as the average lot area for all lots is not less than allowed by the underlying zone. No lot created under this provision shall be less than 80% of the minimum lot size allowed in the underlying zone.

### **290.03 Approval Process**

- A. Decision-making process. Subdivisions are subject to a two-phase development:
  - 1. The preliminary plat shall be approved by the Planning Commission by means of a Type III procedure, as governed by Chapter 115, using the approval criteria in Section 290.05.
  - 2. The final plat shall be approved by the Planning Director by means of a Type I procedure, as governed by Chapter 115, using the approval criteria in Section 290.06.
- B. Time limit on approval. The final subdivision plat approval by the Planning Director shall be effective for a period of two years from the date of approval.

C. Lapsing of approval. The subdivision approval by the Planning Director shall lapse if the approved final subdivision plat has not been recorded within two years of approval or has been improperly recorded with the Baker County Clerk.

D. Phased development:

1. The Planning Commission may approve a time schedule for developing a subdivision in phases but in no case shall the actual construction time period (e.g., for installation of required improvements) for any phase be greater than two years from completion of the previous phase without applying for an extension, per Section 280.03(D)(1) , or re-applying for a preliminary plan approval.
2. The criteria for approving a phased subdivision plan include all of the following:
  - a. The public facilities shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy.
  - b. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities.
  - c. The phased development shall not result in requiring the County or other property owners to construct public facilities that were required as a part of the approval of the preliminary plan.

**290.04 Preliminary Plat Submission Requirements.** The following information shall be provided:

- A. Application form provided by the Planning Director (one copy).
- B. All property owners' signature(s)/written authorization as provided on the application form (one copy).
- C. The following information shall be shown on the tentative plat or provided in accompanying narrative, tabular or graphic materials:
  1. General information:
    - a. Proposed name of the subdivision.
    - b. Names and contact information of all owners of record, authorized agent(s) or representative(s), engineer or surveyor, and any assumed business names filed or to be filed with the Secretary of State Corporate Division by the applicant.
    - c. A site plan conforming to the requirements of Section 310.04(A), including appropriate identification of the proposed site plan as a tentative plat for a subdivision.
    - d. Location and subdivision site designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relationship to existing plats, other properties and streets.
  2. Information related to existing conditions:

- a. Locations, uses, names and widths of existing improved and unimproved roads and access corridors in the proposed subdivision and within 1000 feet of the proposed subdivision.
  - b. Location of any existing features, such as section lines and corners, special district boundary lines and survey monuments.
  - c. Location of existing structures.
  - d. Location of any significant natural features or hazards, including but not limited to watercourses, forested areas, wetlands, the identified 100-year floodplain, areas subject to flooding or high water tables, and any area identified within the Baker County Natural Hazards Mitigation Plan.
  - e. Location, width and use or purpose of any existing easement or right-of-way including, but not limited to, utilities, bikeways, trails, ditches, irrigation canals, pipelines, railroads, and access corridors in the proposed subdivision and within 500 feet of the proposed subdivision.
  - f. Existing sewer lines, septic system drain fields, water mains, wells, culverts and other underground and overhead utilities within the proposed subdivision, together with pipe sizes, grades and locations.
  - g. Contour lines related to some established benchmark or other acceptable datum and having minimum intervals of 20 feet.
  - h. Zoning classification of lands within and adjacent to the proposed subdivision.
3. Information related to the proposed subdivision:
- a. Locations, name, width, typical improvements, bridge(s), culvert(s), approximate grade(s) if grade(s) exceed 10%, curve radii and centerline lengths of the proposed public or private streets and the relationship of each to existing and proposed streets, access easements and unopened right(s)-of-way adjacent to or within the proposed subdivision. Standards for such a street can be found in Section 290.08 and Chapter 320. If a new private road easement is required, conformance with Section 320.03(C) must be demonstrated.
  - b. Locations, widths and purposes of all proposed easements for shared access and relationship to all existing easements adjacent to the proposed subdivision.
  - c. Location of at least one temporary benchmark within the subdivision boundary.
  - d. Location, approximate area and dimensions of each lot and proposed lot numbers within the subdivision.
  - e. Location, approximate size and dimensions of non-buildable tracts, including private roads, recreation trails, railroads, natural resource and/or floodplain set-asides, and utilities, including purpose, plans for improvements or development thereof.
  - f. Location, approximate size and dimensions of proposed public dedications including, but not limited to, rights-of-way, stormwater facility, pedestrian/bicycle trails and floodplains and other natural areas.

- g. Phase boundary outlines in bold lines, if phasing is requested as a part of the subdivision application.
  - h. Description and location of any proposed community facility such as a clubhouse, airstrip or recreational vehicle (RV) storage area.
  - i. Source, method and preliminary plans for domestic and other water supplies, sewage disposal, and all private utilities such as electricity, natural gas and telephone. Development standards for water and sewage improvements can be found in Section 290.07.
  - j. Statement from each utility company proposed to serve the subdivision, stating that each such company is able and willing to serve the subdivision as set forth in the tentative plan.
  - k. Proposed on-site fire protection measures and fire protection district for the subdivision.
  - l. Location and design of all proposed bicycle and pedestrian facilities, if any.
  - m. Narrative demonstrating compliance to approval criteria in Section 290.05.
- D. Preliminary plat reduced to one 8-1/2" X 11" copy, plus one digital copy.
- E. Filing fee.

### **290.05 Preliminary Plat Approval Criteria**

- A. Approval criteria. The Planning Commission shall approve, approve with conditions or deny a request for a preliminary subdivision plan in writing based on findings regarding whether the following criteria are satisfied:
1. The proposed preliminary subdivision plan complies with all statutory and ordinance requirements and regulations.
  2. The proposed preliminary subdivision plan complies with all requirements in Section 290.04.
  3. There are adequate roads to serve the subdivision or a commitment from the developer to provide such roads.
  4. All the improvements meet County, state, and federal standards.
  5. All proposed lots conform to the specific requirements below:
    - a. All newly-created lots must conform to the minimum lot size and lot dimensions contained in the underlying zone, as modified by the lot averaging provision in Section 290.02(F). If lots do not meet the provisions of Section 290.02(F), a concurrent variance must be sought, as per Section 290.05(C).
    - b. Any existing primary or accessory structure(s) or site development retained on any newly-created lot within the subdivision must continue to comply with the applicable setbacks in the underlying zone unless a concurrent variance is sought, per Section 290.05(C).



6. Easements for water conveyance structures, i.e., ditches or pipelines, must be a minimum of 30' in width, 15' in each direction from the banks of the ditch or the center of the pipeline. Easements for diversion or storage structures, and for access to the structures, must be of sufficient width to allow for passage of heavy equipment to repair and maintain the structures. All easements for conveyance and storage structures and for points of diversion shall grant access, the ability to repair and maintain the structures, and to regulate water flow, and shall be for the benefit of persons down-stream of the subject property having legal water rights involving use of any or all of the structures.
  7. Proposed rights-of-way must meet the development standards contained in Section 290.08 and Chapter 320, including but not limited to, Sections 320.03, 320.05 and 320.07. If the facility is to be public, a dedication of the right-of-way must be included in the site plan.
- B. Conditions of approval. The Planning Commission may attach such conditions as are necessary to carry out the Comprehensive Plan and other applicable ordinances and regulations.
- C. Variance to development standards. An applicant may request a concurrent variance(s) to the standards of the underlying zoning district as they apply to the newly-created lots within the subdivision in accordance with Chapter 240.

**290.06 Required Improvements.** The following improvements shall be installed at the expense of the developer for all subdivisions in accordance with the improvement standards described in Section 290.07:

- A. Water Supply. All lots shall be served by an approved public domestic water supply system or approved alternative.
- B. Sewage. All lots shall be served by a public or community sewage disposal system.
- C. Roads.
  1. The developer shall grade and improve all rights-of-ways in the subdivision and shall extend such roads to the paving line of existing roads, in conformance with connectivity standards contained in Section 320.02.
  2. Road improvements shall include related improvements to the extent that they are required by the density or character of development, in accordance with Chapter 320.
  3. Improvements may be required by the County Roadmaster on rights-of-way serving, but not within the boundaries of the subdivision. Such improvements which are required in areas not within the plat perimeter shall be limited to the extent required to serve the proposed subdivision or major partition.
- D. Road Frontage and Access. Each of the newly-reconfigured lots or parcels shall front and have access to an approved public or private road and shall have road frontage satisfying the standards listed Section 340.02(B).
- E. Easements. Easements for existing or proposed, sewers, water mains, electric lines, other public utilities, watercourses, ditches, drainage ways, channels, streams, storm water, pedestrian ways or access shall be dedicated whenever necessary.

- F. Grading and Drainage. Existing and proposed grading and drainage plans shall be provided, including any areas of the site located within an identified floodplain.
- G. Pedestrian facilities. If the density of the subdivision warrants, the Planning Director may require the installation of sidewalks no less than 5' in width at specified locations.
- H. Lots. All proposed lots shall be depicted on the subdivision plat and shall conform to standards contained in Chapter 340 of this Ordinance.
- I. Building Lines. If special building setback lines are to be established in the subdivision, they shall be shown on the subdivision plat.
- J. Lands for Public Purposes. If lands for public purposes are to be established in the subdivision, they shall be shown on the subdivision plat.
- K. Dedication. The Planning Commission may require as a condition of approval the dedication to the public of rights-of-way for public purposes, on or off of the property subject to the approval. All dedications must appear on the final plat, and be approved by the County prior to recording.

**290.07 Improvement Standards.** The design, improvement, and construction of all improvements required to be undertaken as part of the subdivision of land shall comply with the following applicable standards and requirements, to the extent possible given the topography, aesthetics, safety or other design considerations.

- A. Water Supply. Public domestic water supply systems, or approved alternatives, shall conform to State specifications, or the lot size shall be increased to provide such separation of water sources and sewage disposal facilities as the Oregon Department of Environmental Quality considers adequate for soil and water conditions. Lot sizes in areas without public water supplies shall be adequate to meet Oregon Department of Environmental Quality standards. The State Fire Marshal's office and appropriate rural fire protection district shall be notified of the proposed subdivision and be given the opportunity to review proposed water sources.
- B. Sewage. Public or community sewage disposal systems shall conform to State specifications, or the lot size shall be increased to provide sufficient area for an individual sub-surface sewage disposal system.
  1. When lot sizes are increased to provide separation of water sources and sewage disposal, the Planning Director may require that the lots be of such size and shape to facilitate future re-subdividing in accordance with the development standards in the underlying zone, should he/she find that there is a likelihood or possibility that improved sewage disposal system be installed in the future.
  2. Such systems shall be approved by the Oregon Department of Environmental Quality, taking into consideration soil and water conditions and the nature of the water supply.
- C. Roads. In general, the design, improvement, and construction of all roads resulting from the division of land or creation of an access easement shall comply with the following standards and requirements:

1. All roads, rights-of-way and access easements, intersections, road names and other road attributes shall comply with the standards in Chapter 320 of this Ordinance. These standards apply to road improvements required within the land division and for any road improvements required to access the land division.
2. Design exceptions to these standards may only be made with the agreement of the County Roadmaster and approval of the Planning Commission. Design exceptions may only be approved if any one of the following conditions are met. Applicable exceptions standards in Chapter 320 will continue to apply.
  - a. A minor change to a standard is required to address a specific design or construction problem, if not allowing the minor change would result in an undue hardship; or,
  - b. Topography, right-of-way or other geographic conditions impose a hardship on the applicant, provided that the applicant provides either an alternative design or mitigation to accomplish the goals of the design principles of these standards.
3. Road Frontage and Access. Road frontage and access shall comply with standards contained in Section 290.07(D), and Section 340.02. The State Fire Marshal's office shall be notified of the proposed subdivision and be given the opportunity to review proposed access.
4. Easements:
  - a. Utility lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated whenever necessary. The easements shall be at least 10' wide. Utility line tieback easements may be 5' wide.
  - b. Water courses. If a subdivision is traversed by a watercourse such as a drainage way, ditch, channel or stream, a storm water easement or drainage right-of-way shall be created.
  - c. Pedestrian ways. When desirable for public convenience, pedestrian ways may be required to connect cul-de-sacs or to pass through unusually long or oddly-shaped blocks.
  - d. Access. Access easements for all proposed private roads shall conform to the standards contained in Sections 320.02(C), 320.02(D) and 320.02(I).
5. Grading and Drainage. All proposed grading and draining facility installation shall be performed so as to provide proper drainage and to ensure safe, healthy and convenient conditions for the residents of the subdivision, other affected areas and the general public.
  1. When feasible, and when such off-site drainage facilities have the capacity to carry the increased drainage flow, drainage facilities in the development shall be connected to drainage facilities outside the development.
  2. Areas in identified flood zones shall comply with Chapter 630.
  3. Lot grading shall conform to the following standards unless topography, soil type or other physical conditions require otherwise.
    - a. Cut Slopes. Cut slopes shall not exceed 1-1/2' horizontally to 1' vertically.

- b. Fill slopes. Fill slopes shall not exceed 2' horizontally to 1' vertically.
  - c. Soil character. The character of soil for fill and the characteristics of lots made usable by fill shall be suitable for the purpose intended.
6. Pedestrian Facilities. All proposed pedestrian facilities shall be constructed in accordance with Section 320.02(H)(2)(b).
7. Lots.
- a. Size. Lot sizes shall conform to standards for minimum lot size dictated by the underlying zone except where lot averaging is used per Section 290.02(F).
  - b. Exception. In areas that will not be served by a public water supply or a public sewer, minimum lot sizes shall conform to the requirements of the Oregon Department of Environmental Quality and Sections 290.07(A) and (B).
  - c. Through lots. Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation.
  - d. Lot side lines. Where possible, the side lines of lots shall run at right angles to the street upon which the lots face, unless a different angle is required to provide optimum solar orientation, or is necessary to conform to topography or road orientation.
8. Building lines. If setbacks are proposed which are less than the minimum yard requirements contained in the underlying zone, a concurrent variance shall be sought per the requirements of Chapter 240.
9. Land for public purposes. If the County has an interest in acquiring any portion, besides dedicated rights-of-way, of any proposed subdivision for a public purpose, or if the County has been advised of such interest by a school district or other public agency, and there is written notification to the developer from the County that steps will be taken to acquire the land, then the Planning Commission may require that those portions of the subdivision be reserved, for a period not to exceed one year, for public acquisition at a cost not to exceed the value of the land.
10. Dedications. All proposed or required dedications shall be included on the final plat in accordance with ORS 92.

## **290.08 Improvement Agreement and Bond**

- A. Improvement agreement required. Before Planning Director approval is certified on the final plat, and before road construction and site development plans are issued by the County, the applicant shall:
- 1. Execute and file an agreement with the Planning Department specifying the period within which all required improvements shall be completed; and
  - 2. Include in the agreement provisions that if such work is not completed within the period specified, the County may complete the work and recover the full cost and expenses from the applicant.

- B. Stipulation of improvement fees and deposits. The agreement shall stipulate fees and deposits as may be required to be paid and may also provide the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the agreement.
- C. Bond.
1. Performance guarantee required. As required in Section 290.09(B), the applicant shall file with the agreement an assurance of performance supported by one of the following:
    - a. An irrevocable letter of credit executed by a financial institution authorized to transact business within the State of Oregon;
    - b. A surety bond executed by a surety company authorized to transact business in the State of Oregon that remains in force until the surety company is notified by the County, in writing, that it may be terminated; or
    - c. Cash.
  2. Determination of sum. The assurance or performance shall be for a sum determined by the County Roadmaster and Planning Director as required to cover the cost of improvements and repairs, including those related to engineering and incidental expenses.

#### **290.09 Final Plat Submission and Approval Requirements**

- A. Submission requirements. As part of the Type I review of the final plat, the applicant must submit two copies of the subdivision plat prepared by an Oregon Registered Land Surveyor. Specific submission requirements include:
1. All applicable components of Sections 290.04 through 290.08 have been included on the final subdivision plat.
  2. Any additional documentation or narrative required by the Planning Commission in the preliminary plat approval.
  3. All conditions of approval imposed by the Planning Commission in the preliminary plat approval.
  4. The plat shall reflect all requirements contained in ORS 92.060 and 92.070.
  5. The surveyor shall prepare a signature page, which shall contain a space for:
    - a. A declaration stating that the applicant has caused the land represented by the deed descriptions to be split into four or more parcels as required by laws governing subdivisions. If the applicant is not the fee owner of the property, then the fee owner also must execute a declaration for the purpose of consenting to the property being subdivided.
    - b. The signature, title and date for the County Surveyor, County Planning Director, and County Treasurer shall be obtained in the above sequence.

- c. If acceptance of land or right(s)-of-way is required by the County, space for the signature, title and date for the Baker County Board of Commission Chair shall be included on the final plat.
- 6. Any proposed County acceptance of dedicated land shall be included on the subdivision plat in accordance with Section 290.11.
- B. Exemption from legal survey. Any newly-created lot that is 80 acres or larger is exempt from the requirement for a legal survey.
- C. Approval criteria. The Planning Director and County Surveyor shall review and approve the final plat based on the findings criteria:
  - 1. The final plat complies with the preliminary plat approval and all conditions of approval have been satisfied.
  - 2. If the subdivision contains public rights-of-way, these rights-of-way are dedicated without reservation or restriction other than reversionary rights upon vacation of any such right-of-way and easements for public utilities.
  - 3. If the subdivision contains private rights-of-way, these rights-of-way have been included in tracts within the subdivision that have been approved by the County.
  - 4. The plat complies with the applicable requirements of this Ordinance and other applicable regulations.
- D. Per ORS 92.100(1)(E), the Board of Commissioners may officially delegate the authority to approve subdivision plats to the Planning Director when no public dedication of land or right(s)-of-way is required.

**290.10 County Acceptance of Dedicated Land**

- A. Acceptance of dedication by the Chair of the Board of Commissioners. The Chair of the Board of Commissioners may accept the proposed right-of-way dedication for public rights-of-way or other public purposes in a subdivision prior to recording the subdivision with the Baker County Clerk.
- B. Acceptance of public easements by the Chair of the Board of Commissioners. The Chair of the Board of Commissioners may accept all public easements shown for dedication on subdivision plats.

**290.11 Recording Subdivision Plats**

- A. Most recently levied property taxes shall be paid prior to recording of the final plat.
- B. Recording requirements. The applicant shall record the approved subdivision with the Baker County Clerk within 30 days of obtaining all required signatures.
- C. Time limit. The applicant shall submit the copy of the recorded survey plat to the Planning Department within 15 days of recording for incorporation into the file. No zoning clearance for building permits for development on newly-created lots within the subdivision shall be issued by the County until this documentation is received.

## Chapter 310 SITE DESIGN REVIEW

- 310.01 Purpose**
- 310.02 Applicability**
- 310.03 Type I Site Design Review Approval Criteria**
- 310.04 Type II and Type III Site Design Review and Application Submission Requirements**
- 310.05 Site Design Review Approval Criteria**
- 310.06 Bonding and Assurances**
- 310.07 Development in Accordance with Permit Approval**

**310.01 Purpose.** The purpose of this Chapter is to:

- A. Provide rules, regulations and standards for efficient and effective administration of site development review.
- B. Carry out the development pattern and plan of the County and its Comprehensive Plan policies;
- C. Promote the public health, safety and general welfare;
- D. Lessen or avoid congestion in the streets, and provide for safety from fire, flood, pollution and other dangers;
- E. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage;
- F. Encourage the conservation of energy resources; and
- G. Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.

**310.02 Applicability.** Site Design Review shall be required for all new developments and modifications of existing developments, except that regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair shall be exempt. Submission requirements may be adjusted at the discretion of the Planning Director. The criteria for each type of review are as follows:

- A. Type I Site Design Review. Type I Site Design Review applies to those uses listed as “*Uses Permitted through a Type I Procedure*” in the applicable chapters in Articles 4-7. Type I Site Design Review is a non-discretionary or “*ministerial*” review conducted by the Planning Director without a public hearing (See Chapter 115 for review procedure). It is for less complex developments and land uses that do not require Type II or Type III site design review approval. Type I Site Design Review is based on clear and objective standards and ensures compliance with the basic development standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions.
- B. Type II Site Design Review. Type II Site Design Review applies to those uses listed as “*Uses Permitted through a Type II Procedure*” in the applicable chapters in Articles 4-7. Type II Site Design Review is a discretionary review conducted by the Planning Director with public notice and an opportunity for a

hearing (See Chapter 115 for review procedure). Type II Site Design Review ensures compliance with the basic development standards of the land use district (e.g., building setbacks, lot coverage, maximum building height), as well as the detailed design standards and public improvement requirements.

- C. Type III Site Design Review. Type III Site Design Review applies to those uses listed as “*Uses Permitted through a Type III Procedure*” and all Conditional Uses in the applicable chapters in Articles 4-7. Type III Site Design Review is a discretionary review conducted by the Planning Commission (See Chapter 115 for review procedure). Type III Site Design Review ensures compliance with the basic development standards of the land use district (e.g., building setbacks, lot coverage, maximum building height), as well as the detailed design standards and public improvement requirements.

**310.03 Type I Site Design Review Approval Criteria.** Type I Site Design Review shall be conducted only for the developments listed in Section 310.02(A) above, and it shall be conducted as a Type I procedure, as described in Section 115.05. Prior to issuance of building permits, the following standards shall be met:

- A. The proposed land use is permitted by the underlying land use district;
- B. The land use, building/yard setback, lot area or parcel size, lot dimension, density and other applicable standards of the underlying land use district and any overlay zones are met;
- C. All applicable building and fire code standards are met; and
- D. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of Site Design Review approval, or if development of the site is in violation of the approved plan or other applicable codes.

**310.04 Type II and Type III Site Design Review and Application Submission Requirements.**

- A. The following information is required for Type II and Type III Site Design Review application submittal, if applicable to the specific request. Documentation in addition to or in lieu of the following list may be required for a specific permit or action, as required by other chapters of this Ordinance. The Planning Director will have the ultimate authority to determine what information is required, including the request of additional or a waiver of required information:
  - 1. Appropriate application form.
  - 2. Narrative that describes the proposed project and addresses the applicable approval criteria.
  - 3. Site plans drawn to scale describing existing and proposed conditions. The site plans shall depict:
    - a. Date of preparation, true north, scale and gross area of the site.
    - b. Property lines of subject property(ies), including the applicant’s entire property and the surrounding property to a distance sufficient to determine the location of the development in the County, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;



- c. Existing and proposed building locations and dimensions in respect to the subject property.
- d. Existing and proposed irrigation canals and ditches, pipelines and railroads, and any natural features, such as rock outcroppings, marshes, wooded areas and natural hazards.
- e. Location and direction of watercourses and location of areas subject to flooding and high water tables.
- f. Existing and proposed off-street parking spaces and loading areas.
- g. Existing and proposed screening and landscaping, including number and size of plantings.
- h. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
- i. Location, width and use or purpose of any existing or proposed easement or right-of-way for utilities, bikeways, trails, access corridors, natural resources, roadway, rail and/or other easements or rights-of-way within and adjacent to the site.
- j. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
- k. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops, as applicable);
- l. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
- m. Loading and service areas for waste disposal, loading and delivery;
- n. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements, as applicable;
- o. Existing and proposed sewer lines, septic system drainage fields, water mains, wells, culverts and other underground and overhead utilities within and adjacent to the proposed partition, together with pipe sizes, grades and locations.
- p. Contour lines related to some established benchmark or other acceptable datum and having minimum intervals of 2' for slopes of less than 5%, 10' for slopes of 20%, and 20' for slopes greater than 20%, as well as identification of slopes greater than 15 percent;
- q. Zoning classification of lands within and adjacent to the proposed partition.
- r. Existing and proposed lighting, including lights for signage, if applicable.
- s. Location of bus stops and other public or private transportation facilities.
- t. Location of mail boxes, if known;

- u. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the County or State as having a potential for geologic hazards;
- v. Resource areas, including marsh and wetland areas, streams, wildlife habitat identified by the County or any natural resource regulatory agencies as requiring protection;
- w. Site features, including existing structures, pavement, large rock outcroppings, and drainage ways, canals and ditches;
- x. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;

4. Applicable fee.

- B. General Submission Requirements. The applicant shall submit an application containing all of the general information required by Section 115.06 (Type II application) or Section 115.07 (Type III application), as applicable, along with the information specified in Section 115.10. The type of application shall be determined in accordance with Section 310.02.
- C. Site Design Review Information. An application for site design review shall include the following information, as deemed applicable by the Director:
1. Architectural drawings. As deemed necessary by the Planning Director, architectural drawings may be required to show one or more of the following:
    - a. Building elevations with building height and width dimensions;
    - b. Building materials, color and type.
    - c. The name of the architect or designer.
  2. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for developments which would result in the grading (cut or fill) of 1,000 cubic yards or greater. The preliminary grading plan shall show existing topography at the site as well as the location and the extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required.
  3. Storm water and erosion control plan.
  4. Landscape plan. A landscape plan is required and shall show the following:
    - a. The location and height of existing and proposed fences and other buffering or screening materials;
    - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
    - c. The location and size of the existing and proposed plant materials (at time of planting);

- d. Existing and proposed building and pavement outlines;
- 5. Sign drawings shall be required in conformance with the Chapter 730.
- 6. Copies of all existing and proposed restrictions or covenants.
- 7. Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 310.05.
- 8. Other information, as determined by the Director. The County may require studies or exhibits prepared by qualified professionals to address specific site features.

**310.05 Site Design Review Approval Criteria.** The review authority shall make written findings with respect to all of the following criteria when approving, approving with conditions, or denying an application:

- A. The application is complete, as determined in accordance with Section 115.03 and Section 310.04.
- B. The application complies with the all of the applicable provisions of the underlying Land Use District and any applicable Overlay Zone, including: building and yard setbacks, lot area and dimensions, density and floor area, and other special standards as may be required for certain land uses;
- C. Modifications to non-conforming uses or structures must comply with Chapter 720, Non-Conforming Uses;
- D. The application complies with the Development Standards contained in Articles 3 and 7.
- E. Conditions required as part of a Conditional Use Permit (Chapter 210), Lot Line Adjustment (Chapter 270), Partition (Chapter 280), Subdivision (Chapter 290), or other approval shall be met.
- F. Exceptions to the criteria above may be granted only when approved as a Variance (Chapter 240).

**310.06 Bonding and Assurances**

- A. Performance Bonds for Public Improvements. On all projects where public improvements are required, the County shall require a bond in an amount not greater than 100% or other adequate assurances as a condition of site development approval in order to guarantee the public improvements;
- B. Release of Performance Bonds. The bond or assurance shall be released when the Planning Director finds the completed project conforms to the site development approval, including all conditions of approval.
- C. Completion of Landscape Installation. Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the Planning Director or a qualified landscape architect is filed with the County Clerk assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the County to complete the installation.

**310.07 Development in Accordance with Permit Approval.** Development shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., site design review approval) and building permits. Construction of public improvements shall not commence until the County has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The County may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with Section 310.06. Site Design Review approvals shall be subject to all of the following standards and limitations:

A. Modifications to Approved Plans and Developments.

1. Minor modifications of an approved plan or existing development, as defined in Chapter 150, shall be processed as a Type I procedure.
2. Major modifications, as defined in Chapter 150, shall be processed as a Type II or Type III procedure and shall require site design review.

B. Approval Period. Site Design Review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:

1. A building permit has not been issued within a one-year period; or
2. Construction on the site is in violation of the approved plan.

C. Extension. The Planning Director shall, upon written request by the applicant, grant an extension of the approval period not to exceed one year; provided that:

1. No changes are made on the original approved site design review plan;
2. The applicant can show intent of initiating construction on the site within the one-year extension period;
3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; and
4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.

D. Phased Development. Phasing of development may be approved with the Site Design Review application, subject to the following standards and procedures:

1. A phasing plan shall be submitted with the Site Design Review application.
2. The hearings body shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than 2 years without reapplying for site design review.

3. Approval of a phased site design review proposal requires satisfaction of all of the following criteria:
  - a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require Board approval. Temporary facilities shall be approved only upon County receipt of bonding or other assurances to cover the cost of required public improvements; and
  - c. The phased development shall not result in requiring the County or other property owners to construct public facilities that were required as part of the approved development proposal.

## Chapter 320 TRANSPORTATION STANDARDS

- 320.01 Purpose and Intent**
- 320.02 Access Management Standards**
- 320.03 Bicycle and Pedestrian Standards**
- 320.04 Road Standards**
- 320.05 Approval of Transportation Improvement Projects Identified in the Transportation System Plan**
- 320.06 Traffic Impact Study Requirement**

**320.01 Purpose and Intent.** The intent of this Chapter is to provide and encourage a safe, convenient, connected and economic transportation system that allows for the movement of traffic and emergency response vehicles. This Chapter applies to all of Baker County's transportation system. The contents of Chapter 320 apply to construction of new residential, industrial or commercial structures subject to a land use decision.

### **320.02 Access Management Standards**

- A. Intent and Purpose. To identify who is subject to apply for a road approach permit, how the number of accesses are determined, where the access(es) may be located, access standards that must be met, and development review procedure and submittal requirements in relation to access management. It primarily applies to new development that would be constructing a new approach onto an existing road and/or a change in use. It also identifies when an access needs to be improved to meet the current access management requirements and standards.
- B. Actions Requiring Road Approach Permits and Authority to Grant Road Approach Permits
  1. **Projects Requiring Road Approach Permits.** Road Approach Permits are required for projects that result in a change in use. For the purposes of this Chapter, a change in use is defined as: *a change in land use, a land use decision, an expansion of an existing use, or the construction of a new dwelling.* If the project meets the change in use criteria above, then the access shall meet the current access management requirements and standards and require a Road Approach Permit.
  2. **Road Approach Permits onto County Roads.** Road Approach Permits onto county roads shall be subject to review and approval by the County Roadmaster and/or their designee. The criteria for granting access permits shall be based on the standards contained in this Section.
  3. **State Highway Access Permits.** Permits for access onto State highways shall be subject to review and approval by Oregon Department of Transportation (ODOT), except when ODOT has delegated this responsibility to Baker County. In that case, Baker County shall determine whether access is granted based on ODOT's adopted standards.
  4. **City Roadway Access Permits.** Permits for access onto city owned roadways shall be subject to review and approval by that city, except where the city has delegated this responsibility to Baker County. In that case, Baker County shall determine whether access is granted based on adopted city standards.
  5. **Conditions of Approval with Granting of Access Permit.** Baker County or other agencies with

access permit jurisdiction may require the closing or consolidating of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e. for shared driveways), development of a frontage road, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the road system.

6. **Non-Conforming Access Features.** Legal access connections in place as of the effective date of this Section that do not conform with the standards herein are considered non-conforming features and shall be brought into compliance with applicable standards under the following conditions:

- a. Change in use as defined in Section 320.03(B)(1);
- b. When new access connection permits are requested or required.

7. **County's Authority to Change Accesses.**

- a. Baker County has the authority to change accesses for all uses if it is constructing a capital improvement project along that section of the public road. The access changes shall meet all current standards. If it is not possible to change a particular access to meet all the current standards, then a non-conforming access shall be acceptable only if it improves the condition to more closely meet the current standards.
- b. Baker County has the authority to change accesses for all uses if it is necessary to correct a safety problem related to access.

C. **Access from New Private Road Easements.** New proposed private road easements shall be designated on the tentative plan and may be approved by the Planning Director/Planning Commission if they meet the following conditions:

1. If more than two proposed or potential parcels need access, then access shall be provided by a private or public use road.
2. On non-resource ground, a private road easement shall not be approved unless the Planning Director/Planning Commission is satisfied that such right-of-way is not presently needed, nor will ever be needed to be extended through to adjacent property, or to be utilized for public road purposes in the normal growth of the area. If there is a potential that additional right-of-way is needed in the future or that the right-of-way may need to be extended through to adjacent property, or that the road may need to be used for public purposes, then access shall be provided by a public use road. The public use road standard can be found in Figure 7-7 of Section 7 of the Baker County Transportation System Plan.
3. No private road easement shall be less than 30-feet wide, except that a modification may be approved to allow a driveway easement of 20-feet to one parcel or lot.
4. Surface improvements on private road easements shall be as prescribed in Figure 7-9 of Section 7 of the Baker County Transportation System Plan.
5. Maintenance responsibility for private road easements shall be pre-determined before final plat approval according to OAR 660 through one of the following options:
  - a. A maintenance agreement established by the developer with the legal mechanism for the

agreement to be presented prior to approval of the final plat.

- b. Any other method of providing perpetual financing for maintenance services and improvements, provided the method is approved by the County.

D. Access from Existing Private Road Easements. There are a number of existing private access easements in Baker County providing access to more than two parcels. No additional access will be allowed on these private easements unless the following conditions are met:

1. It is demonstrated that the parcel has a legal right to use the existing private access easement or has an easement agreement from the property owners controlling the private easement.
2. The private easement roadway meets the applicable standards of Section 320.05(H) or Section 320.05(I). If the private easement roadway does not meet the standard above, then the applicant must make the necessary improvements to meet the standard prior to receiving access approval.
3. The Planning Commission may grant the applicant a variance if subsection 2 above cannot be met. This variance may only be granted for existing sub-standard roadways if the applicant can demonstrate to the Planning Commission and the County Roadmaster that this condition does not create or make worse an unsafe condition. The County Roadmaster shall provide their opinion in writing to the Planning Commission.
4. A turnaround shall be provided at the end of a private road easement. The turnaround standard is defined in Diagram B at the end of this Chapter.

E. Number of Allowed Accesses

1. Number of Allowed Accesses for Single-Family Residential Lots. A single-family residential lot may request up to two driveways off of a local road. If two residential driveways are requested from a single-family lot, then they shall be subject to spacing standards of 320.03 (F)(2).
2. Number of Allowed Accesses for Non-Residential Uses. The number of driveways allowed for non-residential and non-resource uses shall be based on the daily trip generation of the site in question. One driveway shall be allowed for up to 2,500 daily trips generated with a maximum of two driveways. An exception shall be allowed if it is proven through a traffic impact study that this limitation creates a significant traffic operations hardship for on-site traffic. The primary criteria to allow more driveways will be level of service (see standards in 320.07) analysis, queuing analysis, and safety analysis of the site accesses. If a development has a need for more than two access points, then signalization of the main access shall be investigated as a potential option prior to allowing additional driveways. A signal warrant study will then be required to study whether or not signalization of the main access is required. The County Roadmaster or their designee shall determine whether the traffic study adequately proves that more accesses are needed for a particular project.
3. Right-in, Right-out Access.
  - a. If a driveway cannot meet the access spacing standards in Table 320.02(F)(8) and a variance is being sought for the development's access, then a right-in, right-out driveway shall be the first consideration to provide access. Only if a demonstrated hardship such as the creation of significant out of direction travel is demonstrated in the variance shall consideration be given to a conditional full access driveway. Any conditional access shall be subject to 320.03 (F)(4).



- b. Right-in, right-out driveways shall count toward the maximum number of driveways allowed under 320.03 (E).

F. Location of Accesses. Vehicle access locations shall be provided based on the following criteria:

1. **Corner Lot Access.** Corner lot driveways on local roads shall be a minimum of 50feet from the corner of the roadway or in the case where this is impractical, then the applicant shall file for a variance to this standard to the Roadmaster. Corner lots on arterial or collectors shall have driveways located on the minor cross road. If this is not feasible, then the corner lot driveway on an arterial or collector must follow the minimum access spacing standard in Table 320.03(F)(8) or in the case where this is impractical, the applicant may file for a variance to this standard to the Roadmaster.
2. **Two Single-Family Residential Driveway Spacing for One Lot.** Where two single-family residential driveways are permitted for one single-family residential lot, a minimum separation of 50 feet shall be required. The 50 foot separation shall be measured from the perpendicular near edge to perpendicular near edge. If this is not feasible or in the case where this is impractical, the applicant may file for a variance to this standard to the County Roadmaster.
3. **Access onto Lowest Functional Classification Roadway Requirement.** Access shall be provided from the lowest functional classification roadway. If a tax lot has access to both an arterial and a lower classified roadway, then the arterial driveway shall be closed and access shall be granted along the lower functional classification roadway. This shall also apply for a series of non-residential contiguous tax lots under the same ownership or control of a development entity per the requirements set forth in 320.03(F)(7).
4. **Conditional Access Permits.** Conditional access permits may be given to developments that cannot meet current access spacing and access management standards as long as other standards such as sight distance and other geometric standards can be met. In conjunction with the conditional access permit, crossover easements shall be provided on all compatible parcels without topography and land use conflicts. The conditional access permit shall allow temporary access until it is possible to consolidate and share access points in such a manner to either improve toward the current standards or to meet the current access spacing standards. Table 320.03(F)(4) illustrates the concept of how the crossover easements eventually work toward meeting access spacing standards.

<b>Step</b>	<b>Process</b>
1	<i>EXISTING</i> – Currently Lots A, B, C, and D have site-access driveways that neither meet the access spacing criteria of 500 feet or align with driveways or access points on the opposite side of the highway. <i>Under these conditions motorists are put into situations of potential conflict (conflicting left turns) with opposing traffic. Additionally, the number of side-street (or site-access driveway) intersections decreases the operation and safety of the highway.</i>
2	<i>REDEVELOPMENT OF LOT B</i> – At the time that Lot B redevelops, the local jurisdiction would review the proposed site plan and make recommendations to ensure that the site could promote future crossover or consolidated access. Next, the local jurisdiction would issue conditional permits for the development to

	provide crossover easements with Lots A and C, and ODOT would grant a conditional access permit to the lot. <i>After evaluating the land use action, ODOT would determine that LOT B does not have either alternative access, nor can an access point be aligned with an opposing access point, nor can the available lot frontage provide an access point that meets the access spacing criteria set forth for this segment of highway.</i>
3	<i>REDEVELOPMENT OF LOT A</i> – At the time Lot A redevelops, the local jurisdiction and ODOT would undertake the same review process as with the redevelopment of LOT B (see Step 2); however, under this scenario ODOT and the local jurisdiction would use the previously obtained cross-over easement at Lot B to consolidate the access points of Lots A and B. ODOT would then relocate the conditional access of Lot B to align with the opposing access point and provide safe and efficient access to both Lots A and B. <i>The consolidation of site-access driveways for Lots A and B will not only reduce the number of driveways accessing the highway, but will also eliminate the conflicting left-turn movements on the highway by the alignment with the opposing access point.</i>
4	<i>REDEVELOPMENT OF LOT D</i> – The redevelopment of Lot D will be handled in the same manner as the redevelopment of Lot B (see Step 2)
5	<i>REDEVELOPMENT OF LOT C</i> – The redevelopment of Lot C will be reviewed once again to ensure that the site will accommodate crossover and/or consolidated access. Using the crossover agreements with Lots B and D, Lot C would share a consolidated access point with Lot D and will also have alternative frontage access via the shared site-access driveway of Lots A and B. <i>By using the crossover agreement and conditional access permit process, the local jurisdiction and ODOT will be able to eliminate another access point and provide the alignment with the opposing access points.</i>
6	<i>COMPLETE</i> – After Lots A, B, C, and D redevelop over time, the number of access points will be reduced and aligned, and the remaining access points will meet the <i>Category 4</i> access management standard of 500-foot spacing.

5. Shared Driveway Requirement for Adjacent Non-Residential and Non-Resource Use Parcels with Non-Conforming Access(es). Adjacent non-residential parcels or non-resource use parcels with non-conforming access(es) shall be required to share driveways along arterial and collector roadways, pursuant to 320.03(B), which defines when the requirement is triggered. If the adjacent use refuses to allow for a shared driveway, then a conditional access permit may be given. As a condition of approval, cross-easements shall be granted to the adjacent non-residential parcel to secure a shared driveway later when the adjacent parcel redevelops, seeks to obtain an access permit, or becomes available.
6. Residential Subdivision Access Requirements. Residential subdivisions fronting an arterial or collector roadway shall be required to provide access from secondary local roads for access to individual lots. When secondary local roads cannot be constructed due to topographic or physical constraints, access shall be provided by consolidating driveways per the requirements set forth in Table 320.03(F)(8). In this situation, the residential subdivision shall still meet driveway spacing requirements of the arterial or collector roadway.
7. Phased Development Plans. In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall be reviewed as a single property in relation to the access standards of this Section. The number of access points permitted shall be as defined in

320.03(E). All necessary easement agreements and stipulations within the phased development shall be met to assure that all tenants within the phased development have adequate access. All access to individual uses or buildings within a phased development must be internalized within the site plan using the shared circulation system of the principal development.

8. Access Spacing Standards. The roads within Baker County are classified as arterials, collectors, and local roads. The access spacing standards are shown in Table 320.03 (F)(8) for both full intersection spacing and driveway spacing.

<b>Table 320.03(F)(8) - Access Spacing Standards</b>				
<b>Classification</b>	<b>Min. Posted Speed</b>	<b>Min. Spacing Between Driveways/Roads<sup>1</sup></b>	<b>Min. Spacing Between Intersections</b>	<b>Adjacent Land Use</b>
Arterial	55 mph	1200 feet	1 mile	Undeveloped or agricultural land between major population centers
Collector	25-55 mph	300 feet	½ mile	Undeveloped or agricultural land between and through cities or rural service centers
Local/ Public Use	25-50 mph	50 feet	220 feet	Residential
Private	25-50 mph	Access to each lot permitted	220 feet	Residential
RS2477	25-50 mph	Access to each lot permitted	220 feet	Forest & Rangeland

9. Baker County may reduce the required separation distance of access points defined in Table 320.03(F)(8) where they prove impractical as defined by the County Roadmaster or their designee, provided all of the following requirements are met:

- a. Joint access driveways and cross access easements are provided in accordance with this Section.
- b. The site plan incorporates a unified access and circulation system in accordance with this Section.
- c. The property owner enters into a written agreement with Baker County, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.

10. Baker County may modify or waive the requirements of this Section where the characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical based on physical site characteristics that make meeting the access standards infeasible. Modification or waiver of the requirements of this Section shall be based on the following:

- a. The application of the location of access standard will result in the degradation of operational and safety integrity of the transportation system.

- b. The granting of the variance shall meet the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.
- c. Applicants for a variance from these standards must provide proof of unique or special conditions that make strict application of the provisions impractical. Applicants shall include proof that:
  - i. Indirect or restricted access cannot be obtained;
  - ii. No engineering or construction solutions can be applied to mitigate the condition; and
  - iii. No alternative access is available from a road with a lower functional classification than the primary roadway.
- d. No variance shall be granted where such hardship is self-created.

## G. Access Standards

### 1. Access Standards.

- a. With the exception of parking lots used in conjunction with accepted farm and forest practices, driveways providing access into off-road, surface parking lots shall be designed in such a manner to prevent vehicles from backing into the flow of traffic on the public road or to block on-site circulation. The driveway throat approaching the public road shall have adequate queue length for exiting vehicles to queue on-site without blocking on-site circulation of other vehicles. The driveway throat approaching the public road shall also have sufficient storage for entering traffic not to back into the flow of traffic onto the public road. A traffic impact study, subject to approval by the Roadmaster or their designee, shall be used to determine the adequate queue length of the driveway throat. This requirement shall be applied in conjunction with other design requirements of parking lots. If there is a conflict between these two code provisions, then this code provision supersedes the other parking lot code requirements.
  - b. Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Sight distance triangle requirements are identified in 320.03(G)(3) and 320.03(G)(4). Construction of driveways along acceleration lanes, deceleration lanes, or tapers shall be prohibited due to the potential for vehicular weaving conflicts unless there are no other alternatives for driveway locations. Only after a traffic impact study is conducted as defined in 320.07 and concludes that the driveway does not create a safety hazard along acceleration lanes, deceleration lanes, or taper shall the driveway be considered for approval. Approval of a driveway location along an acceleration lane, deceleration lane, or taper shall be based on the Roadmaster or their designee agreeing with the conclusions of the traffic impact study.
2. Public Road Stopping Sight Distance. Public roads shall have a minimum stopping sight distance requirement as summarized in Table 320.03(G)(2). The minimum stopping sight distance is measured from a height of 3.5 feet to a target on the roadway nominally six (6) inches in height. The minimum stopping sight distance is based on design speed of the roadway. If a design speed is not known, then the assumed design speed shall be at least 5 mph more than the posted speed or may be measured as the 85<sup>th</sup> percentile speed.

<b>Table 320.03(G)(2) Stopping Sight Distance Requirement</b>	
<b>Design Speed (mph)</b>	<b>Minimum Distance (feet)</b>
25	155
30	200
35	250
40	305
45	360
50	425

3. Sight Distance Triangle. Traffic entering an uncontrolled public road from a stop sign controlled public road, or from private roads or private driveways, shall have minimum sight distances, as shown in Table 320.03(G)(2) except as allowed in 320.03(G)(3). The sight distance triangle is based on design speed of the roadway. If a design speed is not known, then the assumed design speed shall be at least 5 mph more than the posted speed or may be measured as the 85<sup>th</sup> percentile speed.

<b>Table 320.03 (G)(3) Intersection/Driveway Sight Distance Triangle Requirement</b>	
<b>Design Speed (mph)</b>	<b>Minimum Distance (feet)</b>
20	200
25	250
30	300
35	350
40	400
45	450
50	500

The intersection and driveway sight distance is measured from an eye height of 3.5 feet above the controlled road, at least 15 feet from the edge of the vehicle travel lane of the uncontrolled public road, to an object height of 4.25 feet on the uncontrolled public road in accordance with the table below. This definition for measuring sight distance is consistent with AASHTO (American Association of State Highway and Transportation Officials) standards.

4. Uncontrolled Intersection and Driveway Sight Distance Triangle in Residential Areas. This Section only applies to local access roads in urban and rural residential areas. Uncontrolled intersections shall have an unobstructed sight distance triangle of 30 feet along the property lines of both intersection approaches. Any vegetation within the sight distance triangle must be 24 inches in height or less. For driveways, the sight distance triangle along the driveway and property line adjacent to the public road shall be a minimum of 10 feet for each leg.

## H. Connectivity and Circulation Standards

1. Connectivity

- a. The road system of proposed subdivisions shall be designed to connect with existing, proposed, and planned roads outside of the subdivision.
- b. Wherever a proposed development abuts un-platted, developable land for a future development phase of the same development, road stubs with cul-de-sacs shall be provided to provide access to abutting properties or to logically extend the road system into the surrounding area.
- c. All proposed roads shall connect with surrounding roads to permit the convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation. Connections shall be designed to avoid or minimize through traffic on local roads. Appropriate design and traffic calming measures are the preferred means of discouraging through traffic.

## 2. Cul-de-sacs and Accessways

- a. Cul-de-sacs or permanent dead-end roads may be used as part of a development plan only if topographical, environmental, or existing adjacent land use constraints make connecting and through roads infeasible. Where cul-de-sacs are planned, accessways shall be provided connecting the ends of cul-de-sacs to each other, to other roads, or to neighborhood activity centers unless topographical, environmental, or existing adjacent land use constraints make it infeasible.
- b. Accessways for pedestrians and bicyclists shall be 10 feet wide and located within a 15-foot-wide right-of-way or easement. If the roads within the subdivision are lighted, the accessways shall also be lighted at residential/residential illumination standard. Stairs or switchback paths may be used where grades are steep. Any vegetation planted within the accessway shall be less than 30 inches in height and must not create a safety issue for pedestrians and bicyclists.

## I. Review Procedure for Access Management for Creating Four (4) or more Large Development Parcels over any Period of Time

1. Applicants for Development Reviews impacting access shall submit a preliminary site plan that shows:
  - a. Location of existing and proposed access point(s) on both sides of the road for a distance great enough to show that access spacing requirements are met;
  - b. Distances from proposed access point to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;
  - c. Number and direction of lanes to be constructed on the driveway plus striping plans;
  - d. All planned transportation features (such as sidewalks, bikeways, signs, signals, etc.);
2. Development Reviews shall address the following access criteria:
  - a. Access shall be properly placed in relation to sight distance, driveway spacing, health and safety, and other related considerations, including opportunities for joint and cross access.

- b. The external road system to the project site and internal road system within the project site shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.
3. The Oregon Department of Transportation shall review any application that involves access to the State Highway System for conformance with state access management standards.
4. Baker County Road Department staff shall review any application that involves road development or access to the Baker County road system.

**320.04 Bicycle and Pedestrian Standards.** At the discretion of the Planning Director/Planning Commission, special uses can be required to provide pedestrian and bicycle amenities. The bicycle and pedestrian facility standards can be found in Section 7 of the Baker County Transportation System Plan (TSP). The TSP uses the standards for non-motorized facilities that are contained in the Oregon Bicycle and Pedestrian Plan, ODOT, June 14, 1995.

- A. Bicycle and Pedestrian Circulation and Access Requirements for Site Plans. Required elements for a site plan shall include bicycle and pedestrian circulation elements such as accessways and walkways. The following shall be included in the site plan:
  1. Pedestrian Access and Circulation. Internal pedestrian circulation shall be provided in new commercial, office, and multi-family residential developments through the clustering of buildings, construction of hard surface walkways, landscaping, accessways, or similar techniques.
  2. All site plans (industrial and commercial) shall clearly show how the site's internal pedestrian and bicycle facilities connect with external existing or planned facilities or systems.
- B. Bicycle and Pedestrian Circulation and Access Requirements for Approval of Subdivision Tentative Plans and Final Plats. Information required shall include the location and design of all proposed pedestrian and bicycle facilities, including accessways. The following shall be included in subdivision tentative plans and final plats:
  1. Cul-de-Sacs and Accessways.
    - a. Cul-de-sacs or permanent dead-end streets may be used as part of a development plan; however, through streets are encouraged except where topographical, environmental, or existing adjacent land use constraints make connecting streets infeasible. If cul-de-sacs are planned, accessways shall be provided connecting the ends of cul-de-sacs to each other, to other streets, or to neighborhood activity centers.
    - b. The Hearings Body or Planning Director may determine, based upon evidence in the record, that an accessway is impracticable. Such evidence may include, but is not limited to:
      - i. Physical or topographic conditions make an accessway connection impractical. Such conditions include, but are not limited to freeways, railroads, extremely steep slopes, wetlands, or other bodies of water where a connection cannot reasonably be provided.
      - ii. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future, considering potential for redevelopment.

- iii. If accessways would violate provisions of leases, easements, covenants, restrictions, or other agreements existing as of May 1, 1995, that preclude a required accessway connection.

### **320.05 Road Standards**

- A. Road Design Conformity. The arrangement, character, extent, width, grade and location of all roads shall be designed to coordinate and connect with existing and planned roads, topographical conditions, construction and maintenance costs, public conveniences and safety, and in appropriate relation to the proposed uses of the land to be served by such road. Where not shown on an area plan, the arrangement and other design standards of roads shall conform to the provisions found in the Baker County Transportation System Plan and herein.
- B. Relation to Adjoining Road System. The arrangement of roads, easements and undeveloped rights-of-way in partitions and subdivisions shall be designed to coordinate and connect with existing or desired roads in adjoining areas.
- C. Projection of Roads. Where adjoining parcels are not partitioned or subdivided to the maximum density allowed by the zone(s), the arrangement of roads, easements and undeveloped rights-of-way in new subdivisions shall make provisions for the proper projection of roads.
- D. Dead-end Road or Cul-de-sac. No dead-end roads shall be constructed without a turn-around or cul-de-sac. See Diagram B at the end of this Chapter.
- E. Roads to be Carried to Property Lines. When a proposed partition or subdivision joins land capable of further division, road rights-of-way shall be carried to the boundaries of the tract to be partitioned or subdivided.
- F. Frontage Roads. For non-resource ground, where a partition or subdivision abuts or contains an existing arterial road, the Planning Commission may require frontage roads or other such treatment as may be necessary for adequate protection of abutting properties and to afford separation of through and local traffic in order to preserve mobility on the arterial.
- G. Road Widths and Improvements
  - 1. Road standards shall not be less than those set forth in Figures 7-2 to 7-10 in the Baker County Transportation System Plan, except where it can be shown that probable future traffic development or physical characteristics are such as to justify modification of the standards.
  - 2. In areas designed and zoned for commercial use, road widths may be increased by such amount as may be deemed necessary by the Planning Commission to provide for the free flow of through traffic without interference by parked or parking vehicles, and to provide safe parking space for such commercial or business districts.
  - 3. For subdivisions, road and related improvements shall be completed or bonded for completion prior to final plat consideration and shall be constructed and reviewed by the County Roadmaster, according to the minimum Road Standards set forth in Figures 7-2 to 7-10 in the Baker County Transportation System Plan.
- H. Driveways



1. All Driveways for Residential Use within 150 feet of a public road:
  - a. Driveways shall be a minimum of 12 feet wide. The driveway or private road shall be constructed from the site of development to the point where the driveway connects to a public road. See Diagrams A, B, and C at the end of this Chapter.
2. All driveways accessing a development more than 150 feet from a public road that is located within a fire protection district shall:
  - a. Be a minimum of 12 feet wide with an all-weather load bearing surface, except any turn sharper than a 50' radius shall maintain a load bearing surface that is 14 feet wide for 50 feet on either side of the center point of the turn. The driveway or private road shall be developed from the site of development to the point where the driveway connects to a public road. See Diagram A at the end of this Chapter.
  - b. Provide vertical clearance of 14 feet and horizontal clearance of 14 feet. Clearance area shall be free from all obstructions impeding emergency vehicle access. Gates must exceed 14 feet of horizontal clearance.
  - c. Have an entrance/exit at the point where the driveway connects to a road. The entrance/exit shall be 22 feet wide for 30 feet of length before returning to 12 feet wide. See Diagram A at the end of this Chapter. Gates shall be placed more than 30 feet from the property line or the point where the driveway joins the road.
  - d. All driveways exceeding 150 feet in length shall provide a turnaround at the site of development. The turnaround shall conform to the standards of Diagram B at the end of this Chapter.
  - e. Turnouts shall be placed so that they are visible from the next turnout, but spaced no more than ¼ mile apart. See Diagram C at the end of this Chapter. Modification from placement of turnouts may be approved upon written consent of the verifying authority.
  - f. All driveways shall be all-weather roads capable of supporting a minimum of 60,000 lbs gross vehicle weight on the entirety of the load bearing surface, including bridges and culverts. A bridge equaling or exceeding 20 feet in length shall be engineered and certified by an Oregon licensed engineer, and a sign shall be permanently posted showing the weight limit.
  - g. No driveway grade shall exceed an average of 10%, not to exceed 12%, for no more than 100 feet where no turns or stops are required within the length of driveway that exceeds 10%.
3. Baker County shall verify access standards for driveways, private roads, and fire, life and safety issues. A fire protection district may enter into an intergovernmental agreement with Baker County to assume responsibility within the fire district for verifying driveways or private roads for residential use exceeding 150 feet in length meet the applicable standards of Section 320.05(H). In the absence of said agreement, Baker County shall be the verifying authority.
4. A modification from the standards of Section 320.05(H) or Section 320.05(I) may be requested by application to Baker County.

- a. The purpose of the modification is to recognize the variation in properties and conditions in Baker County and to provide a procedure for modification of the above-stated requirements. The County Roadmaster, in consultation with the local fire protection district and the applicant, shall develop a modification plan taking into consideration a. – p. of this Section. A modification plan shall be considered a Type II decision. The following criteria shall be considered when formulating a modification plan:
    - i. Public safety and emergency vehicle access
    - ii. Any need for public use
    - iii. Right-of-way or easement width
    - iv. Connectivity
    - v. Resource or non-resource zoning
    - vi. Geographical conditions
    - vii. Population density
    - viii. Property size
    - ix. Fuel load
    - x. Bridges and culverts
    - xi. Turnouts and turnarounds
    - xii. Road width and length
    - xiii. Dwelling size
    - xiv. Cost in relation to benefit
    - xv. Rough proportionality of offsite improvements
    - xvi. Nexus of improvements to development
  - b. The Roadmaster shall submit the modification plan in writing to the Planning Director.
  - c. A modification plan may be appealed in accordance with the provisions for appealing a Type II decision described in Section 115.06(G) of this Ordinance.
5. Access to development outside of a fire protection district shall meet the requirements of an individual emergency access plan developed by Baker County, in consultation with the applicant, which takes into consideration the totality of the circumstances related to that particular development. For parcels abutting a fire protection district, the emergency access plan will be developed in consultation with the local fire protection district. The individual access plan shall be submitted to the Planning Director in writing. An individual access plan shall be considered a Type I decision.
- I. Private Roads for Residential Use/ Public Use Roads. When three or more dwellings are to be served by the same vehicular access, that access shall become a private road. The road must be named in accordance with the Baker County Road Naming and Rural Addressing Ordinance when the road provides access to three addressed dwellings or commercial buildings.
1. A private road or a public use road shall be a minimum of 22 feet wide, with an all-weather load bearing surface capable of supporting a minimum of 60,000 lbs gross vehicle weight on the entirety of the load bearing surface, including bridges and culverts. A bridge equaling or exceeding 20 feet in length shall be engineered and certified by an Oregon licensed engineer, and a sign shall be permanently posted showing the weight limit.
  2. If the private road or public use road dead-ends, a turnaround shall be provided at the end of the road. The turnaround shall conform to the standards of Diagram B at the end of this Chapter.

3. A modification from the standards of Section 320.05(I) may be requested by application to Baker County. See modification procedures in Section 320.05(H)(4) or 320.05(H)(5).
- J. Reverse Curve. A tangent at least 100-feet long shall be introduced between reverse curves on arterial roads.
- K. Large Parcel Partitions and Large Lot Subdivisions. Where a tract is partitioned or subdivided into larger parcels or lots than permitted by the applicable zone, such parcels or lots shall be arranged so as to allow the opening of future roads and logical further partitioning or subdividing.
- L. Reserve Strips. Reserve strips controlling access to roads shall be prohibited except under conditions approved by the Planning Commission.
- M. Road Grades. No new road shall exceed a 10% grade, with due allowance for reasonable vertical curves. Driveways and private roads for residential use shall adhere to standards set forth in Section 320.05(H) and (I).
- N. Railroad or Limited Access Highway On or Abutting a Partition or Subdivision. Where a partition or subdivision is bordered on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Director/Planning Commission may require a road approximately parallel to and on each side of such right-of-way at a distance suitable for the requirements of approach grades and future grade separations.
- O. Road Names and Numbers. Road names and numbers shall be assigned and conform to the Baker County Road Naming and Rural Address Ordinance No. 94-05.
- P. Access to Roads Across Ditches. The developer shall provide access to all proposed lots or parcels, across all ditches and streams to accommodate a gross vehicle weight of 60,000 pounds and by a standard method approved by the County Roadmaster.
- Q. Dedication. Streets and roads for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any street or road and easements for public utilities [ORS 92.090(3)]. Baker County shall preserve right-of-way for planned transportation facilities through exactions, voluntary dedications, or setbacks.
- R. Alleys
1. Commercial and Industrial Districts. Alleys shall be required in commercial and industrial districts, except that the Planning Commission may waive this requirement where other definite and assured provisions are made for service access, such as off-road loading, or unloading and parking consistent with and adequate for the uses proposed.
  2. Width. The right-of-way width of an alley shall be that width determined necessary by the Planning Commission, upon recommendation of the County Roadmaster.
  3. Dead-end. Dead-end alleys shall not be permitted, except that the Planning Commission may waive this requirement where such dead-end alley is unavoidable, and where adequate turn-around facilities have been provided.

### **320.06 Approval of Transportation Improvement Projects Identified in the Transportation System Plan**

- A. Uses Permitted Outright. Except where otherwise specifically regulated by this Ordinance, the following improvements are permitted outright:
1. Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.
  2. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
  3. Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.
  4. Landscaping as part of a transportation facility.
  5. Emergency measures necessary for the safety and protection of property.
  6. Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan except for those that are located in Exclusive Farm Use or forest zones.
  7. Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.
- B. Conditional Uses Permitted. Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are: (1) not improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or EA (Environmental Assessment), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:
1. The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.
  2. The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.
  3. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
  4. Project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this Ordinance.
- C. If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional permit review.

- D. Time Limitation on Transportation-Related Conditional Use Permits. Authorization of a conditional use shall be void after a period specified by the applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.

### **320.07 Traffic Impact Study Requirement**

A. Intent and Purpose. A transportation impact analysis (TIA) provides an objective assessment of the anticipated modal transportation impacts associated with a specific land use action. The purpose of the scope of the TIA is to demonstrate compliance with the Transportation Planning Rule (TPR) (OAR 660-012-0060) and Statewide Planning Goal 12, Transportation. For the project to demonstrate compliance with the TPR and Statewide Planning Goal 12, it must be demonstrated that the proposed project's traffic impacts are either within the performance standards of the impacted transportation facilities or that adverse impacts are mitigated within the adopted performance standards. A TIA answers important transportation-related questions such as:

1. Can the existing transportation system accommodate the proposed development from a capacity and safety standpoint?
2. What transportation system improvements are necessary to accommodate the proposed development?
3. How will access to the proposed development affect the traffic operations on the existing transportation system?
4. What transportation impacts will the proposed development have on the adjacent land uses?
5. Will the proposed development meet current standards for roadway design?

Throughout the development of the TIA (and beginning as early as possible), cooperation between Baker County staff, the applicant, and the applicant's traffic engineer is encouraged to provide an efficient and effective process.

Baker County staff may, at its discretion, and depending on the specific situation, require additional study components in a TIA beyond what is outlined in this Section or waive requirements deemed inappropriate.

Baker County assumes no liability for any costs or time delays (either direct or consequential) associated with the preparation and review of a transportation impact analysis.

B. When a Transportation Impact Analysis (TIA) is Required. For purposes of appeal only, TIA requirement determinations shall be considered a land use decision. A TIA shall be required at the discretion of the County Roadmaster when:

1. The development generates 25 or more peak-hour trips or 250 or more daily trips.
2. An access spacing exception is required for the site access driveway(s) and the development generates 10 or more peak-hour trips or 100 or more daily trips.
3. The development is expected to impact intersections that are currently operating at the upper limits of the acceptable range of level of service during the peak operating hour.

4. The development is expected to significantly impact adjacent roadways and intersections that have previously been identified as high crash locations or areas that contain a high concentration of pedestrians or bicyclists such as school zones.
  5. A plan or land use regulation amendment significantly affects a transportation facility. This is defined by whether a plan or land use regulation amendment does the following:
    - a. Changes the functional classification of an existing or planned transportation facility;
    - b. Changes standards implementing a functional classification system;
    - c. Allows types or levels of land uses that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
    - d. Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.
- C. When a Transportation Assessment Letter is Required. If a TIA is not required by the County Roadmaster, the applicant's traffic engineer shall submit a transportation assessment letter to Baker County indicating the proposed land use action is exempt. This letter shall outline the trip-generating characteristics of the proposed land use and verify that the site-access driveways or roadways meet Baker County's sight-distance requirements and roadway design standards.
- D. Contents of a Transportation Impact Analysis. The following format shall be used in preparing a transportation impact analysis.
1. *Table of Contents.* Listing of all sections, figures, and tables included in the report.
  2. *Executive Summary.* Summary of the findings and recommendations contained within the report.
  3. *Introduction.* Proposed land use action, including site location, building square footage, and project scope. Map showing the proposed site, building footprint, access driveways, and parking facilities. Map of the study area, which shows site location and surrounding roadway facilities.
  4. *Existing Conditions.* Existing site conditions and adjacent land uses. Roadway characteristics (all transportation facilities and modal opportunities located within the study area, including roadway functional classifications, street cross section descriptions, posted speeds, bicycle and pedestrian facilities, on-street parking, and transit facilities). Existing lane configurations and traffic control devices at the study area intersections. Existing traffic volumes and operational analysis of the study area roadways and intersections. Roadway and intersection crash history analysis.
  5. *Background Conditions (without the proposed land use action).* Approved developments and funded transportation improvements in the study area. Traffic growth assumptions. Addition of traffic from other planned developments. Background traffic volumes and operational analysis.
  6. *Full Build-out Traffic Conditions (with the proposed land use action).* Description of the proposed development plans. Trip-generation characteristics of the proposed development (including trip reduction documentation). Trip distribution assumptions. Full build-out traffic volumes and intersection operational analysis. Intersection and site-access driveway queuing analysis. Expected safety impacts. Recommended roadway and intersection mitigations (if necessary).

7. *Site Circulation Review.* Evaluate internal site access and circulation. Review pedestrian paths between parking lots and buildings. Ensure adequate throat depth is available at the driveways and that vehicles entering the site do not block the public facilities. Review truck paths for the design vehicle.
  8. *Turn Lane Warrant Evaluation.* Evaluate the need to provide turn lanes at the site driveways.
  9. *Conclusions and Recommendations.* Bullet summary of key conclusions and recommendations from the Transportation Impact Analysis.
  10. *Appendix.* Traffic counts summary sheets, crash analysis summary sheets, and existing/background/full build-out traffic operational analysis worksheets. Other analysis summary sheets such as queuing and signal warrant analyses.
  11. *Figures.* The following list of figures shall be included in the Transportation Impact Analysis: Site Vicinity Map; Existing Lane Configurations and Traffic Control Devices; Existing Traffic Volumes and Levels of Service (all peak hours evaluated); Future Year Background Traffic Volumes and Levels of Service (all peak hours evaluated); Proposed Site Plan; Future Year Assumed Lane Configurations and Traffic Control Devices; Estimated Trip Distribution Pattern; Site-Generated Traffic Volumes (all peak hours evaluated); Full Build-out Traffic Volumes and Levels of Service (all peak hours evaluated).
  12. *Preparer Qualifications.* A professional engineer registered in the State of Oregon shall prepare the Transportation Impact Analyses. In addition, the preparer shall have extensive experience in the methods and concepts associated with transportation impact studies.
- E. Study Area. The study area shall include, at a minimum, all site-access points and intersections (signalized and unsignalized) adjacent to the proposed site. If the proposed site fronts an arterial or collector street; the study shall include all intersections along the site frontage and within the access spacing distances extending out from the boundary of the site frontage. Beyond the minimum study area, the transportation impact analysis shall evaluate all intersections that receive site-generated trips that comprise at least 10% or more of the total intersection volume. In addition to these requirements, the Public Works Director (or their designee) shall determine any additional intersections or roadway links that might be adversely affected as a result of the proposed development. The applicant and the Public Works Director (or their designee) will agree on these intersections prior to the start of the Transportation Impact Analysis.
- F. Study Years to be Analyzed in the Transportation Impact Analysis. A level-of-service analysis shall be performed for all study roadways and intersections for the following horizon years:
1. *Existing Year.* Evaluate all existing study roadways and intersections under existing conditions.
  2. *Background Year.* Evaluate the study roadways and intersections in the year the proposed land use is expected to be fully built out, without traffic from the proposed land use. This analysis shall include traffic from all approved developments that impact the study intersections, or planned developments that are expected to be fully built out in the horizon year.
  3. *Full Build-out Year.* Evaluate the expected roadway, intersection, and land use conditions resulting from the background growth and the proposed land use action assuming full build-out and

occupancy. For phased developments, an analysis shall be performed during each year a phase is expected to be completed.

4. *Twenty-Year Analysis.* For all land use actions requesting a Comprehensive Plan Amendment and/or a Zone Change, a long-term level-of-service analysis shall be performed for all study intersections assuming build-out of the proposed site with and without the comprehensive plan designation and/or zoning designation in place. The analysis should be performed using the future year traffic volumes identified in the Transportation System Plan (TSP). If the applicant's traffic engineer proposes to use different future year traffic volumes, justification for not using the TSP volumes must be provided along with documentation of the forecasting methodology.

- G. Study Time Periods to be Analyzed in the Transportation Impact Analysis. Within each horizon year, a level-of-service analysis shall be performed for the time period(s) that experience the highest degree of network travel. These periods typically occur during the mid-week (Tuesday through Thursday) morning (7:00 a.m. to 9:00 a.m.), mid-week evening (4:00 p.m. to 6:00 p.m.), and Saturday afternoon (12:00 p.m. to 3:00 p.m.) periods. The Transportation Impact Analysis shall always address the weekday a.m. and p.m. peak hours when the proposed lane use action is expected to generate 25 trips or more during the peak time periods unless there is negligible traffic generated by the proposed project in those time periods. If the applicant can demonstrate that the peak-hour trip generation of the proposed land use action is negligible during one of the two peak study periods and the peak trip generation of the land use action corresponds to the roadway system peak, then only the worst-case study period shall be analyzed.

Depending on the proposed land use action and the expected trip-generating characteristics of that development, consideration of non-peak travel periods may be appropriate. Examples of land uses that have non-typical trip generating characteristics include schools, movie theaters, and churches. The Public Works Director (or their designee) and applicant shall discuss the potential for additional study periods prior to the start of the transportation impact analysis. The Public Works Director (or their designee) has the right to condition the applicant to study a non-peak period.

- H. Traffic Count Requirements. Once the study periods have been determined, turning movement counts shall be collected at all study area intersections to determine the base traffic conditions. These turning movement counts shall be conducted during the weekday (Tuesday through Thursday) between 7:00 and 9:00 a.m. and between 4:00 and 6:00 p.m., depending on the proposed land use. Historical turning movement counts may be used if the data are less than 12 months old, but must be factored to meet the existing traffic conditions.

- I. Trip Generation for the Proposed Development. To determine the impacts of a proposed development on the surrounding transportation network, the trip-generating characteristics of that development must be estimated. Trip-generating characteristics shall be obtained from one of the following acceptable sources:

1. Institute of Transportation Engineers (ITE) Trip Generation Manual (latest edition).
2. Specific trip generation studies that have been conducted for the particular land use action for the purposes of estimating peak-hour trip-generating characteristics. The Public Works Director (or their designee) shall approve the use of these studies prior to inclusion of such studies in the Transportation Impact Analysis.

In addition to new site-generated trips, several land uses typically generate additional trips that are not added to the adjacent traffic network. These trips include pass-by trips and internal trips

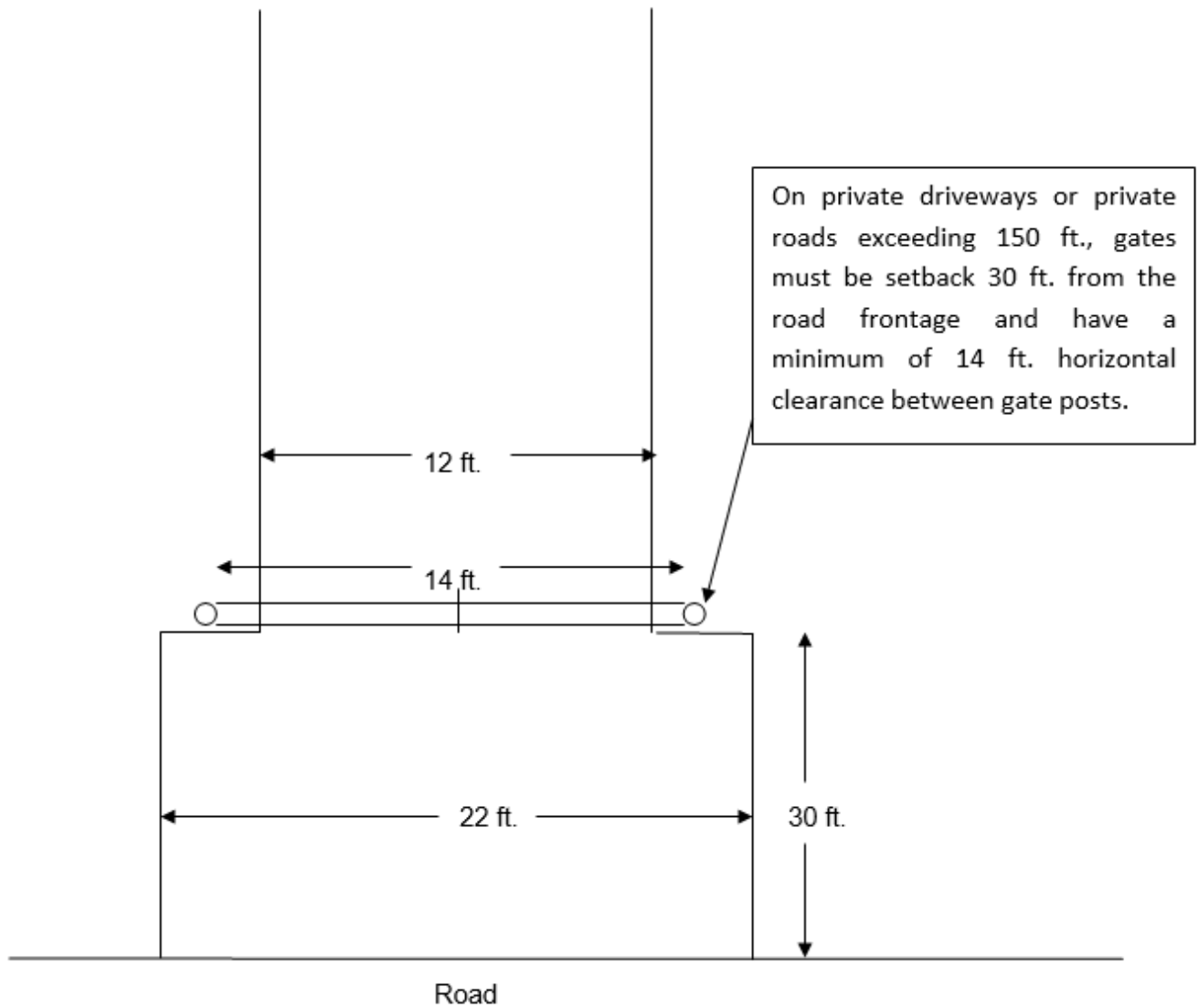


and are considered to be separate from the total number of new trips generated by the proposed development. The procedures listed in the most recent version of the *Trip Generation Handbook* (ITE) shall be used to account for pass-by and internal trips.

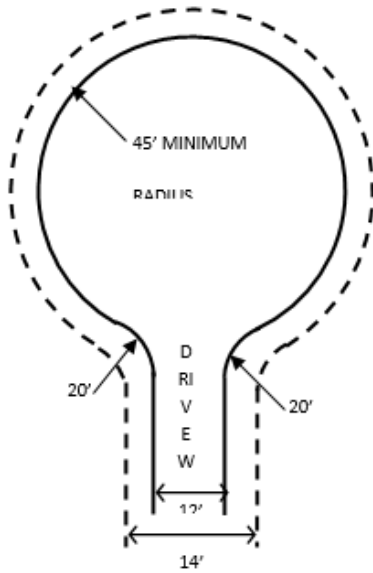
- J. Trip Distribution. Estimated site-generated traffic from the proposed development shall be distributed and assigned on the existing or proposed arterial/collector street network. Trip distribution methods shall be based on a reasonable assumption of local travel patterns and the locations of off-site origin/destination points within the site vicinity. Acceptable trip distribution methods shall be based on one of the following procedures:
1. An analysis of local traffic patterns and intersection turning movement counts gathered within the previous 12 months.
  2. A detailed market study specific to the proposed development and surrounding land uses.
- K. Intersection Operation Standards. Baker County evaluates intersection operational performance based on levels of service and “*volume-to-capacity*” (v/c) ratio. When evaluating the volume-to-capacity ratio, the total traffic demand shall be considered.
1. *Intersection Volume-to-Capacity Analysis*. A capacity analysis shall be performed at all intersections within the identified study area. The methods identified in the latest edition of the *Highway Capacity Manual*, published by the Transportation Research Board, are to be used for all intersection capacity calculations. Baker County requires that all intersections within the study area must maintain a v/c ratio of 0.95 or less. It should be noted that the mobility standards in the Oregon Highway Plan apply to Oregon Department of Transportation facilities.
  2. *Intersection Levels of Service*. Baker County requires all intersections within the study area to maintain an acceptable level of service (LOS) upon full build-out of the proposed land use action. LOS calculations for signalized intersections are based on the average control delay per vehicle, while LOS calculations for unsignalized intersections are based on the average control delay and volume-to-capacity ratio for the worst or critical movement. All LOS calculations shall be made using the methods identified in the most recent version of the *Highway Capacity Manual* (or by field studies), published by the Transportation Research Board. The minimum acceptable level of service for signalized intersections is LOS “D”. The minimum acceptable level of service for all-way stop controlled intersections and roundabouts is LOS “D”. The minimum acceptable level of service for unsignalized two-way stop controlled intersections is LOS “E” or LOS “F” with a v/c ratio of 0.95 or less for the critical movement. Any intersections not operating at these standards will be considered to be unacceptable.
- L. Review Policy and Procedure. The following criteria shall be used in reviewing a transportation impact analysis as part of a subdivision or site plan review.
1. The road system is designed to meet the projected traffic demand at full build-out.
  2. Proposed driveways do not adversely affect the functional character of the surrounding roadways.
  3. Adequate intersection and stopping sight distance is available at all driveways.
  4. Proposed driveways meet Baker County’s access spacing standard or sufficient justification is provided to allow a deviation from the spacing standard.

5. Opportunities for providing joint or crossover access have been pursued.
  6. The site does not rely upon the surrounding roadway network for internal circulation.
  7. The road system provides adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.
  8. A pedestrian path system is provided that links buildings with parking areas, entrances to the development, open space, recreational facilities, and other community facilities per the Transportation Planning Rule.
- M. Conditions of Approval. As part of every land use action, Baker County (if access to a County roadway is proposed) and ODOT (if access to a state roadway is proposed) is required to identify conditions of approval needed to meet operations and safety standards and provide the necessary right-of-way and improvements to develop the future planned transportation system. Conditions of Approval that should be evaluated as part of subdivision and site plan reviews include:
1. Crossover easement agreements for all adjoining parcels to facilitate future access between parcels.
  2. Conditional access permits for new developments which have proposed access points that do not meet the designated access spacing policy and/or have the ability to align with opposing access driveways.
  3. Right-of-way dedications for future planned roadway improvements.
  4. Off-site improvements to bring transportation facilities impacted by development to current standards identified in the Transportation System Plan.
- N. Conditions of Approval for Comprehensive Plan and Land Use Regulation Amendments. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
1. Limiting allowed land uses to be consistent with the planned function of the transportation facility;
  2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
  3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.
- O. Transportation Impact Analysis Checklist. As part of the transportation impact analysis review process, all transportation impact analyses submitted to Baker County must satisfy the requirements illustrated in the Checklist for Acceptance of Transportation Impact Analyses.

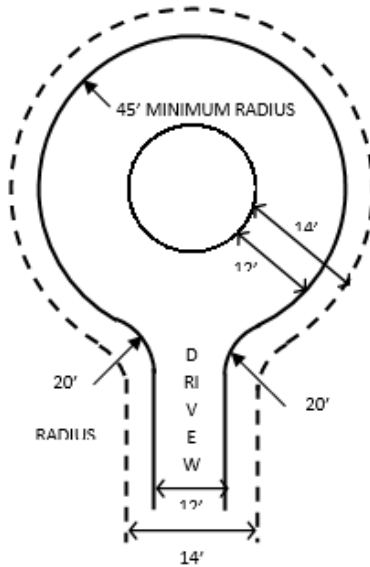
### Diagram A - Typical Driveway Entrance/ Exit Dimensions



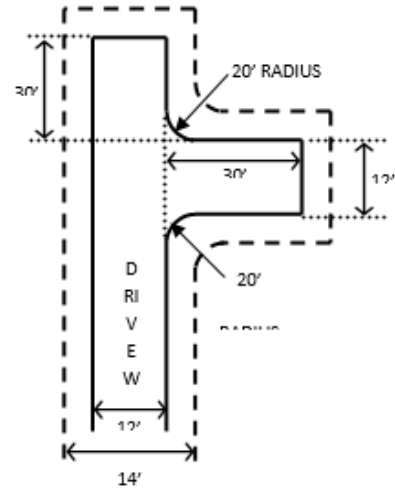
## Diagram B - Turnaround Standards



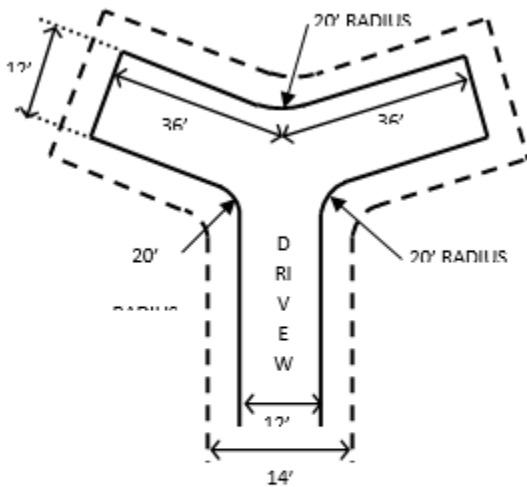
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**CUL-DE-SAC**



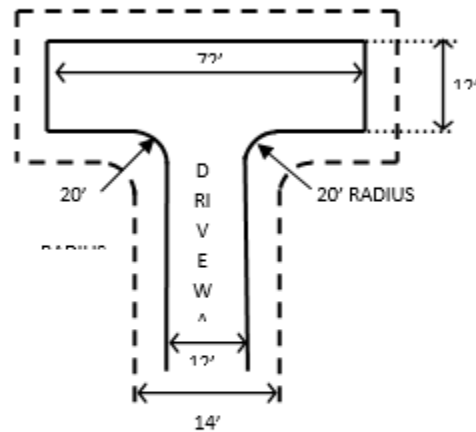
CLEARANCE  
**CIRCULAR DRIVEWAY**



CLEARANCE  
**BASIC TURNOUT**

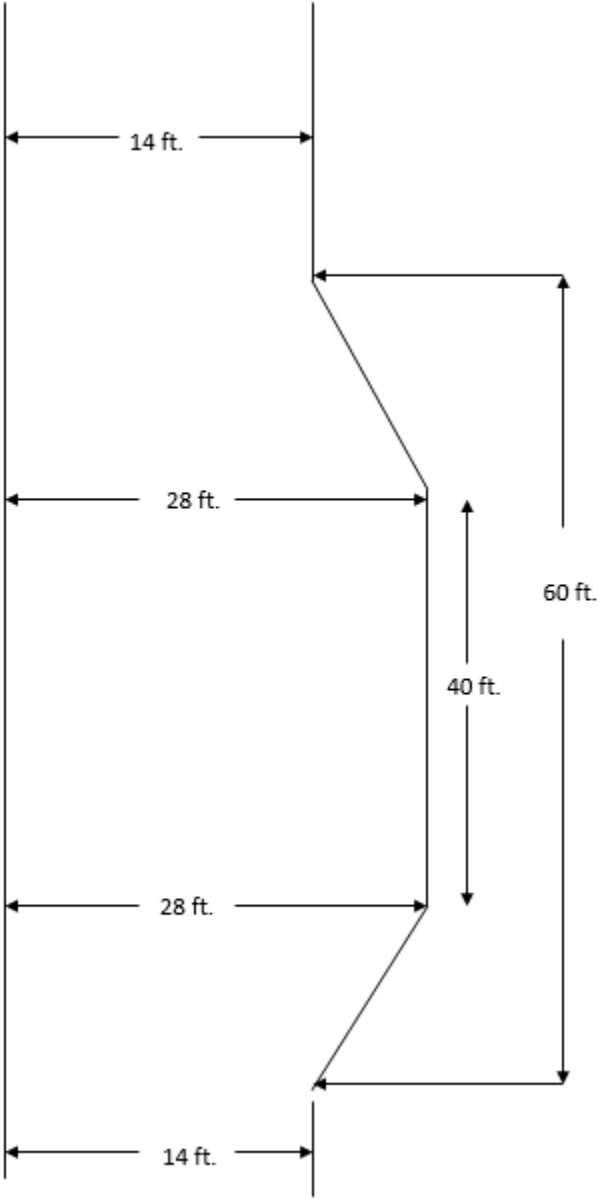


CLEARANCE  
**"Y"**



CLEARANCE  
**HAMMERHEAD**

**Diagram C - Typical Turnout Dimensions**



**Chapter 330**  
**OFF-STREET PARKING AND LOADING**

- 330.01 Purpose**
- 330.02 General Provisions**
- 330.03 Off-Street Parking Standards**
- 330.04 Off-Street Loading Standards**

**330.01 Purpose.** The purpose of this Chapter is to establish parking areas that have adequate capacity and are appropriately located and designed to minimize any hazardous conditions on-site and at access points. The parking requirements are intended to provide sufficient parking in close proximity to the various uses for residents, customers and employees, and to establish standards which will maintain the traffic carrying capacity of nearby streets.

**330.02 General Provisions.** The following provisions shall apply to off-street parking and loading facilities:

- A. The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. The subsequent use of property shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Ordinance. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking and loading requirements, it shall be unlawful and a violation of this Ordinance to begin or maintain such altered use until such time as the increased off-street parking and loading requirements are complied with.
- B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.
- C. In the event multiple uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of these uses computed separately.
- D. Owners of two or more uses, structures, or parcels of land may agree to jointly utilize the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Director in the form of deeds, leases, or contracts to establish the joint use.
- E. Off-street parking spaces for dwellings shall be located on the same lot as the dwelling. All other required parking spaces shall be located no farther than 200 feet from the building or use they are required to serve, measured in a straight line from the building.
- F. Required parking spaces shall be available for the parking of operable passenger automobiles for residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
- G. A plan drawn to scale, indicating how the off-street parking and loading requirements will be met, is to be filed with the Planning Director.
- H. Design requirements for parking lots and loading areas:

1. Areas used for standing and maneuvering of vehicles shall have durable surfaces maintained adequately for all-weather use and drain to avoid flow of water across sidewalks.
2. Except for parking to serve residential uses, parking and loading areas adjacent to residential zones or adjacent to residential uses shall be designed to minimize disturbances of residents.
3. Artificial lighting, which may be provided, shall be so deflected as not to shine or create glare in any residential zone or on any adjacent dwelling.
4. Access aisles shall be of sufficient width for vehicles turning and maneuvering.
5. Groups of more than four parking spaces shall be located and served by a driveway so that the use of such will not require backing or other maneuvering within a street right-of-way other than an alley.
6. Service drives to off-street parking and loading areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrians and vehicular traffic on the site.
7. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line adjoining said lines through a point 20 feet from the intersection of these lines.

### 330.03 Off-Street Parking Standards

- A. At the time of erection of a new structure, or at any time of enlargement or change in use of an existing structure within any zone in the County, off-street parking spaces shall be provided for the new construction as indicated in this Section unless greater requirements are otherwise established. Where square feet are specified, the area measured shall be the new gross floor area of the building primary to the function of the particular use of the property other than space devoted to off-street parking for employees. Where employees are specified, the term shall apply to all persons including the proprietors working on the premises during the peak shift.
- B. Table 330.03(B) lists the parking standards for different classes of uses.

<b>Table 330.03(B) - Parking Standards</b>	
<b>Type of Use</b>	<b>Parking Space Requirement</b>
<b>Residential Uses</b>	
Dwelling	One space per dwelling unit
Boarding house, lodging house, or rooming house	One space per guest accommodation
<b>Institutions</b>	
Convalescent hospital, nursing home, sanitarium, rest home, home for the aged	One space per two beds for patients or residents
Hospital	Three spaces per two beds
<b>Places of Public Assembly</b>	
Library, reading room	One space per 400 square feet plus one space per two employees
Preschool, nursery, kindergarten	Two spaces per teacher

<b>Table 330.03(B) - Parking Standards</b>	
<b>Type of Use</b>	<b>Parking Space Requirement</b>
Elementary or junior high school	One space per classroom, plus one space per administrative employee
Senior high school	One space per classroom, plus one space per administrative employee, plus one space per six students
Other public assembly, including church	One space per four seats or eight feet of bench length
<b>Commercial</b>	
Retail Store	One space per 250 square feet of floor area
Service or repair shop, retail store handling exclusive bulky merchandise such as automobiles and furniture	One space per 400 square feet of floor area
Bank or office (except medical or dental)	One space per 400 square feet of floor area plus one space per two employees
Medical or dental office	One space per 200 square feet of floor area plus one space per two employees
Mortuary	One space per four seats or eight feet of bench in chapels
Motel	One space per guest room plus one space for the owner or manager
Hotel	One space per two guest rooms plus one space per two employees
Restaurant	One space per four seats
Commercial use in conjunction with permitted farm use	One space per 100 square feet of floor area plus one space per employee
<b>Industrial</b>	
Storage warehouse, manufacturing, establishment, rail or trucking freight terminal	One space per employee
Wholesale establishment	One space per employee plus one space per 700 square feet of patron-serving area

**330.04 Off-Street Loading Standards.** Building or structures to be built or substantially altered which receive and distribute materials, merchandise or people by motor vehicle shall provide and maintain off-street loading spaces in sufficient number and size to adequately handle the needs of the particular use.

- A. The following standards shall be used in establishing the minimum number of spaces required:
1. For buildings and structures up to 6,000 square feet, regular off-street parking areas may be used to meet the off-street loading requirements.
  2. For buildings and structures up to 10,000 square feet in gross floor area, one loading space shall be required.
  3. For buildings and structures at least 10,000 square feet in gross floor area, two loading spaces shall be required.



- B. A loading space shall be 10 feet wide and 35 feet long and have a vertical clearance of 14 feet. Where the vehicles generally used for loading and unloading exceed these dimensions, the required length of these spaces shall be increased.

### 330.05 Vehicle Parking - Minimum Accessible Parking

- A. Accessible parking shall be provided for all uses open to the public.
- B. Such parking shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the entrance on an unobstructed path or walkway;
- C. Accessible spaces shall be grouped in pairs where possible;
- D. Where covered parking is provided, covered accessible spaces shall be provided in the same ratio as covered non-accessible spaces;
- E. Required accessible parking spaces shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities. Signs shall be posted directly in front of the parking space at a height of no less than 42 inches and no more than 72 inches above pavement level. Van spaces shall be specifically identified as such.

<b>Table 310.06.B - Minimum Number of Accessible Parking Spaces</b>			
Source: ADA Standards for Accessible Design 4.1.2(5)			
Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces ( <i>with 60" access aisle, or 96" aisle for vans*</i> )	Van Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
1 to 25	<i>Column A</i>	1	0
	1		
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A**	7/8 of Column A***
1001	20 plus 1 for each 100 over 1000	1/8 of Column A**	7/8 of Column A***
*vans and cars may share access aisles			
**one out of every 8 accessible spaces		***7 out of every 8 accessible parking spaces	

**Chapter 340**  
**DEVELOPMENT STANDARDS (SETBACK REQUIREMENTS) FOR ALL ZONES**

- 340.01 Purpose**
- 340.02 Setbacks and Frontage Requirements**
- 340.03 Adjustment to Setbacks and Frontage Requirements**
- 340.04 Exceptions to Lot Size Requirements**

**340.01 Purpose.** The purpose of this Chapter is to establish the development standards and setback requirements applicable to all zones.

**340.02 Setbacks and Frontage Requirements**

- A. Applicability. These requirements shall apply to all structures except for adjustments permitted in Section 340.03 and Livestock Concentration Limitations in Section 510.05.
- B. Standards.
  - 1. Minimum road frontage shall be 220 feet per parcel, unless the subject property is:
    - a. Currently accessed or proposed to be accessed from a dead-end road, in which case 60 feet of road frontage shall be required; or
    - b. Accessed by an easement granted before 2005, in which the width of the existing easement shall suffice; or
    - c. A parcel or lot on the radius of a road or facing the circular end of a cul-de-sac, in which case no less than 30 feet of road frontage shall be required upon said road, measured on the arc of the right-of-way. Such frontage shall be subject to the standards set forth in Chapter 340.
  - 2. No part of a structure shall be constructed or maintained closer than 60 feet to the centerline of a road or street, or 30 feet from any right-of-way in excess of 60 feet.
  - 3. No part of a building or other structure, except for a sign, shall be constructed or maintained closer than 10 feet to any property line.
  - 4. If any part of a structure and/or development is proposed within a jurisdictional wetland, as described in Section 660.03, notification shall be provided by the Baker County Planning Department to the Department of State Lands, as required by ORS 196.795-990. The applicant/property owner shall be responsible for obtaining all necessary permits for the proposed structure and/or development from the Department of State Lands.

**340.03 Adjustment to Setbacks and Frontage Requirements**

- A. Setbacks shall not apply to those structures that are reasonably expected to be on or near a property line such as mailboxes, roads, or streets, bridges, and fences.

- B. The minimum land width at the front building line shall not be reduced as the result of a variance to less than 50 feet.
- C. If there are buildings on both abutting lots which are within 100 feet of the intervening lot, and the buildings have setbacks from a street center line of less than the required depth, the setback for the intervening lot need not exceed the average depths of the setbacks of the abutting lot and the required setback.
- D. If there is a building on one abutting lot which is within 100 feet of the lot, and this building has a setback from the street center line of less than the required depth for the zone, the setback for the lot need not exceed a depth halfway between the depth of the setback of the abutting lot and the required setback.

#### **340.04 Exceptions to Lot Size Requirements**

- A. Other than in resource zones, if a lot or tract of contiguous lots held in a single ownership as recorded in the office of the County Clerk at the time of passage of this Ordinance has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of that zone; provided however, that if there is an area deficiency, residential use shall be limited to a single-family dwelling.
- B. Any parcel of land or portion thereof which has been or is to be dedicated to a public or semi-public entity for a road, railroad, utility or other public use shall be entitled to an adjustment from the minimum lot size requirement set forth by this Ordinance. The adjustment shall be limited to the amount of land dedicated to and accepted for public use.
- C. Minimum requirements relative to lot size, where applicable, shall be considered as standard metes and bounds land section divisions; therefore, lot sizes may be smaller than set forth in this Ordinance if a total section acreage reduction is due to a U.S. Public Lands survey adjustment.
- D. Statutory "*Lot of Record*" provisions (Sections 9-13, Chapter 884, Oregon Laws 1981, as amended by Sections 14 and 15, Chapter 826, Oregon Laws 1983) may provide a development right for sub-standard sized lots if said lot(s) qualify under the law.

**Chapter 410**  
**EXCLUSIVE FARM USE ZONE (EFU)**

- 410.01 Purpose**
- 410.02 Uses Permitted Through a Type I Procedure**
- 410.03 Uses Permitted Through a Type II Procedure**
- 410.04 Uses Permitted Through a Type III Procedure**
- 410.05 Standards for Certain Uses in the EFU Zone**
- 410.06 Minimum Lot Size**

**410.01 Purpose.** The Exclusive Farm Use Zone is intended to conserve and maintain productive agricultural land for continued agricultural use. The purpose of this Chapter is to describe the applicability, permitted uses, and requirements for the EFU Zone.

**410.02 Uses Permitted Through a Type I Procedure.** In the EFU Zone, the following uses and their accessory uses shall be permitted outright when authorized in accordance with the provisions of Section 115.05.

A. Farm/Forest Resource

1. Farm use, as defined in ORS 215.203(2).
2. Agricultural buildings customarily provided in conjunction with farm use.
3. The propagation or harvesting of a forest product.

B. Natural Resource

1. Creation of, restoration of, or enhancement of wetlands.
2. Emergency feeding stations shall be approved when the following is met:
  - a. Written notice will be provided to the Planning Director as to the location of emergency feeding stations or feeding sites on private or public land, said notice to be provided within 15 days of the establishment of said feeding station. After notification of the siting of an emergency feeding station, the Planning Director will send written notice of that siting to abutting landowners and operators. Upon written request of any abutting landowner, a public hearing will be scheduled for review and approval or disapproval of the feeding site within 30 days of the close of the feeding site for the season.
  - b. The applicable decision criteria shall be as follows. The emergency feeding station operators shall demonstrate that:
    - i. The permanent feeding station criteria cannot be applied;

- ii. The feeding station is located in an area where there is reasonable evidence that its operation will effectively reduce or prevent significant damage by big game to private property or otherwise solve the emergency; and
- iii. Where the purpose of the feeding station is for damage control, other less intrusive management techniques (e.g., hazing and fencing) have been utilized and have not solved the identified problem.

C. Commercial

1. Type I Minor Home Occupations, subject to the provisions of Section 225.02.

D. Transportation

1. Climbing and passing lanes within the right-of-way existing as of July 1<sup>st</sup>, 1987.
2. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the sub-surface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
3. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such a time as no longer needed.
4. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous publicly-owned property utilized to support the operation and maintenance of public roads and highways.

E. Utility Facilities

1. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
2. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
3. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
4. Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505(1).

F. Parks/Public/Quasi-public

1. Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.
2. Fire service facilities providing rural fire protection services.

## G. Mineral, Aggregate, Oil, and Gas

1. Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be the basis for a goal exception.
2. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be the basis for a goal exception.

**410.03 Uses Permitted Through a Type II Procedure.** In the EFU Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06.

### A. Farm/Forest Resource

1. A facility for the processing of farm products is a permitted use if the facility:
  - a. Uses less than 10,000 square feet for its processing area and complies with all applicable siting standards. The county may not apply siting standards in a manner that prohibits the siting of a facility for the processing of farm products; or
  - b. Notwithstanding any applicable siting standard, uses less than 2,500 square feet for its processing area. However, Baker County shall apply applicable standards and criteria pertaining to floodplains, geologic hazards, airport safety, and fire siting standards.
  - c. A county may not approve any division of a lot or parcel that separates a facility for the processing of farm products from the farm operation on which it is located.

### B. Residential

1. A primary dwelling customarily provided in conjunction with farm use, if one of the following tests are met. Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling.
  - a. Parcel Size Test. A single-family dwelling may be considered in conjunction with farm use if it is not identified as high-value farmland, pursuant to OAR 660-033-0020(8) and:
    - i. The dwelling is proposed on a parcel which is currently employed for farm use, as defined in ORS 215.203;
    - ii. The tract contains no other dwelling except season farm worker housing approved prior to 2001;
    - iii. The dwelling will be occupied by a person or persons who will be principally engaged in farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
    - iv. Complies with the minimum parcel size requirements of Section 410.06(B)(6).

- v. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
- b. Capability Test as provided in OAR 660-033-0135(2). A single-family dwelling may be considered in conjunction with farm use if the dwelling is proposed on an agricultural parcel or tract which is not identified as high-value farmland and:
- i. Is at least as large as the median size of commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are wholly or partially within one mile from the perimeter of the subject parcel; and
  - ii. The subject tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm and ranch tracts identified in Section 410.03(B)(1)(b)(i) determined, pursuant to OAR 660-033-0135(3); and
  - iii. The subject parcel or tract is currently employed for farm use as defined in ORS 215.203, at a level capable of producing the annual gross sales required by Section 410.03(B)(1)(b)(i); and
  - iv. The subject parcel or tract on which the dwelling is proposed is not less than 20 acres; and
  - v. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract; and
  - vi. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use as required by Section 410.03(B)(1)(b)(iii).
  - vii. The dwelling will be occupied by a person or persons who will be principally engaged in farm use of the land, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale.
  - viii. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
- c. Income Test. A single-family dwelling may be considered customarily provided in conjunction with farm use if the dwelling is proposed on an agricultural parcel or tract which is not identified as high-value farmland; and
- i. The subject parcel is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:
    1. At least \$40,000 in gross annual income from the sale of farm products; or
    2. Gross annual income of at least the midpoint of the median income range of gross sales for farms in Baker County with gross sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and
  - ii. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS 215 or for mixed farm/forest use pursuant to OAR 660-006-0057 owned by the farm or ranch operator or on the farm or ranch operation;
  - iii. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in subsection (i) of this Section; and
  - iv. In determining the gross income required by Section (i) of this subsection:
    1. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

2. Only gross income from land owned, not leased or rented, shall be counted; and
  3. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- v. For the purpose of the income test described in this subsection (c), noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements.
1. Prior to the final approval for a dwelling authorized under this Section that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "*Exhibit A*" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:
    - a. All future rights to construct a dwelling except for accessory farm dwellings, secondary farm dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS 215; and
    - b. The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
    - c. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
    - d. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;
    - e. The failure to follow the requirements of this Section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this Section;
    - f. The Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records, pursuant to this Section, and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records, pursuant to this Section. The map or other record required by this Section shall be readily available to the public in the Baker County Planning Department.
- d. High Value Test. A single-family dwelling may be considered customarily provided in conjunction with farm use if the dwelling is proposed on a parcel or tract which is identified as high-value farmland; and
- i. The subject parcel or tract is currently employed for farm use, as defined in ORS 215.203, that produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years, or in an average of three of the last five years; or
  - ii. Gross annual income of at least the midpoint of the median income range of gross sales for farms in Baker County with gross sales of \$10,000 or more.



- iii. There is no other dwelling on the subject parcel or tract, except farm-worker housing as permitted by ORS 215.278 and ORS 215.283; and
- iv. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (i) of this Section.
- v. In determining the gross income required by subsection (i) of this Section:
  - 1. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation.
  - 2. Only gross income from land owned, not leased or rented, shall be counted; and
  - 3. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- vi. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
- vii. Non-contiguous lots or parcels zoned for farm use in Baker County or contiguous counties may be used to meet the gross income requirements. Prior to the final approval for a dwelling authorized under this Section, the requirements set forth in Section 410.03(B)(1)(c)(v)(1) shall be met.

e. Transfer of Operation. A dwelling may be considered customarily provided in conjunction with farm use if:

- i. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Section 410.03(B)(1)(c) or (d), whichever is applicable;
- ii. The subject lot or parcel on which the dwelling will be located is:
  - 1. Currently employed for the farm use, as defined in ORS 215.203, that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Section 410.03(B)(1)(c) or (d), whichever is applicable; and
  - 2. At least the size of the applicable minimum parcel size under Section 410.06(B)(1) or (2).
  - 3. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
  - 4. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in subsection (i) of this Section; and
  - 5. In determining the gross income required by subsections (i) and (ii)(1) of this Section:
    - a. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
    - b. Only gross income from land owned, not leased or rented, shall be counted.

2. Relative Farm Help Dwellings, which satisfy the following requirements:

- a. The relative farm help dwelling is located on the same lot or parcel as the dwelling of the farm operator and is located on real property used for farm use;
- b. The dwelling is occupied by a relative of the farm operator or the farm operator's spouse, whose assistance in the management and farm use of the existing commercial farming

operation is required by the farm operator. However, farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling.

- c. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
  - d. For the purpose of this Section, “relative” means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator’s spouse.
  - e. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
  - f. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcels size requirements under subsection 410.06(B)(1-2), if the owner of a dwelling described in this paragraph obtains construction financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined on ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.
3. Accessory Farm Dwellings as defined by subsection (g) of this Section may be considered customarily provided in conjunction with farm use if each accessory farm dwelling meets the following requirements:
- a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and
  - b. The dwelling will be located:
    - i. On the same lot or parcel as the primary farm dwelling; or
    - ii. On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
    - iii. On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is re-approved under these rules;
    - iv. On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services. Oregon Occupational Safety and Health Division under ORS 658.750. Baker County shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. “Farmworker housing” shall have the meaning set forth in ORS 215.278 and not the meaning in ORS 315.163; or
    - v. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum parcel

size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and

- c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch that could reasonably be used as an accessory farm dwelling.
- d. In addition to the requirements in subsection (a) of this Section, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:
  - i. On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:
    - a. At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract, or
    - b. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
  - ii. On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;
- e. The county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this Section. If it is determined that an accessory farm dwelling satisfies the requirements of OAR 660-033-0135, a parcel may be created consistent with the minimum parcel size requirements in OAR 660-033-0100.
- f. An accessory farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Section 410.04(C)(1) of this chapter.
- g. For the purposes of this Section, “accessory farm dwelling” includes all types of residential structures allowed by the applicable state building code.
- h. Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for an accessory farm dwelling.
- i. An acknowledgement of farm and forest practices shall be recorded with the County Clerk that meets the standards of Section 410.05(C).

#### 4. Lot-of-Record Dwelling

- a. A single-family dwelling proposed on a lot or parcel meeting all of the following criteria:
  - i. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner (as defined in subsection 410.03(B)(4)(d)):
    - 1. Since prior to January 1, 1985; or
    - 2. By devise or intestate succession from a person who acquired the lot or parcel since prior to January 1, 1985;
  - ii. The tract on which the dwelling will be sited does not include a dwelling.
  - iii. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists prior to January 1, 1985.
  - iv. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law.
  - v. The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not high-value farmland except as provided in Section 410.03(B)(4)(b).
  - vi. If the parcel on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 are met.
  - vii. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.
- b. Notwithstanding the requirements of Section 410.03(B)(4)(a)(v), a single-family dwelling may be sited on high-value farmland if:
  - i. It meets all other requirements of Section 410.03(B)(4);
  - ii. The lot or parcel is protected as high-value farmland; and
  - iii. The Planning Commission or Hearings Officer determines that:
    - 1. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this Section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent to the land or physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;
    - 2. The dwelling will not materially alter the stability of the overall land use pattern in the area.
- c. Notice for all dwellings allowed under this Section shall be provided to the State Department of Agriculture and shall be mailed at least 20 calendar days prior to the issuance of a final decision by the Planning Director.

- d. For the purposes of this Section, "owner" includes the spouses in a marriage, son, daughter, parent, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, parent-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
  - e. When approval for a single-family dwelling is granted under the provisions of this Section, the application may be transferred by a person who has qualified under this Section to any other person after the effective date of the land use decision.
  - f. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
    - i. If the parcel on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 are met.
5. Replacement Dwelling. A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the Planning Director finds to their satisfaction, based on substantial evidence, that:
- a. The dwelling to be altered, restored or replaced has, or formerly had:
    - i. Intact exterior walls and roof structure;
    - ii. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - iii. Interior wiring for interior lights; and
    - iv. A heating system.
  - b. In addition to the provisions of subsection (a), the dwelling to be replaced meets one of the following conditions:
    - i. If the dwelling was removed, destroyed or demolished:
      - 1. the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and
      - 2. any removal, destruction or demolition occurred on or after January 1, 1973.
  - c. If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent taxes; or
  - d. A dwelling not described in subsections (b) or (c) of this Section was assessed as a dwelling for purposes of ad valorem taxation:
    - i. for the previous five property tax years; or
    - ii. from the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.
  - e. For replacement of a lawfully established dwelling under this Section:

- i. The dwelling to be replaced shall be removed, demolished, or converted to an allowable non-residential use:
    1. Within one year after the date the replacement dwelling is certified for occupancy, pursuant to ORS 455.055; or
    2. If the dwelling to be replaced is, in the discretion of Baker County, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by Baker County that is not less than 90 days after the replacement permit is issued; and
    3. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the Planning Director for the new location.
    4. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.
  - f. As a condition of approval, if the replacement dwelling is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the Planning Director, or the Planning Director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this Section and either ORS 215.283(l) or ORS 215.283(p) regarding replacement dwellings have changed to allow the lawful siting of another dwelling. The Planning Director, or the Planning Director's designee, shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under subsection (e) of this Section, including a copy of the deed restrictions filed under subsection (e)(iii) of this Section.
  - g. A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
  - h. The replacement dwelling must be sited on the same lot or parcel:
    - i. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or other natural boundary of the lot or parcel; and
    - ii. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
  - i. A replacement dwelling permit that is issued under this Section is a land use decision where the dwelling to be replaced formerly had the features described in paragraph (5)(c) of this Section, and is not subject to the time limits of ORS 215.417.
  - j. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
6. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480 and listed on the National Register of Historic Places. An acknowledgement of farm and forest practices shall be recorded with the County Clerk that meets the standards of 410.05(C).

7. Temporary Hardship Dwelling. A manufactured dwelling, or recreational vehicle, or the temporary use of an existing building in conjunction with an existing dwelling, or the temporary use of a dwelling may be allowed for the term of the hardship suffered by the existing resident or relative, as defined in ORS 215, subject to the following:
  - a. The manufactured dwelling shall use the same sub-surface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required.
  - b. Permits shall be reviewed every year.
  - c. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed non-residential use.
  - d. A temporary residence approved under this Section is not eligible for replacement under ORS 215.283(1)(p).
  - e. As used in this Section, “*hardship*” means a medical hardship or hardship for the care of an aged or infirm relative as defined in ORS 215.
  - f. The criteria in Section 410.05(B) shall be met.
  - g. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).

C. Commercial

1. Dog training classes or testing trials conducted outdoors or in farm buildings that existed on January 1, 2013, when:
  - a. The number of dogs participating in training does not exceed 10 dogs per training class and the number of training classes to be held on-site does not exceed six per day; and
  - b. The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.
2. Farm stands if:
  - a. The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
  - b. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

- c. As used in this Section, “farm crops and livestock” include both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, “processed crops and livestock” include jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.
  - d. As used in this Section, “local agricultural area” includes Oregon or a county in Idaho adjacent to Baker County.
3. A winery, as described in ORS 215.452 or ORS 215.453, and ORS 215.237.
  2. A cider business, as provided in ORS 215.451.
  3. A farm brewery, as described in ORS 215.449.

#### D. Transportation

1. Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.
2. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings, but not resulting in the creation of new land parcels.
3. Improvements of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required, but not resulting in the creation of new land parcels.

#### E. Utility Facilities

1. Utility facility service lines.
2. Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet high. To demonstrate that a utility facility is necessary, as described in ORS 215.283(1)(c), an applicant must:
  - a. Show that reasonable alternatives have been considered and that the facility must be sited in an Exclusive Farm Use Zone due to one or more of the following factors:
    - i. Technical and engineering feasibility;
    - ii. The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
    - iii. Lack of available urban and non-resource lands;
    - iv. Availability of existing rights-of-way;
    - v. Public health and safety;
    - vi. Other requirements of state and federal agencies



- b. Costs associated with any of the factors listed in Section 410.03(D)(1)(a) may be considered; however, cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.
- c. The owner of a utility facility approved under this Section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this Section shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
- d. The governing body of the county or its designee shall impose clear and objective conditions to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.
- e. The provisions of subsections (2) to (5) of this Section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

#### F. Parks/Public/Quasi-Public

- 1. Land application of reclaimed water, agricultural or industrial process water or bio-solids, or the on-site treatment of septage prior to the land application of bio-solids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the EFU zone, subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251. For the purposes of this Section, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.
- 2. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. The following criteria shall apply:
  - a. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use approved under this Section.
  - b. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this Section.
  - c. An owner of property used for the purpose authorized in this Section may charge a person operating the use on the property rent for the property.
  - d. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.

- e. As used in this Section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
3. Firearms training facility in existence on September 9, 1995, meeting the standards of Section 410.05(A).

G. Institutions

1. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, may be allowed subject to the standards in subsection 410.05(A).

**410.04 Uses Permitted Through a Type III Procedure.** In the EFU Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.05. These uses shall also require a Conditional Use Permit as described in Chapter 210, and shall comply with the criteria set forth in Section 410.05(E).

A. Farm/Forest Resource

1. A facility for the primary processing of forest products, provided that such facility is found not to seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this Section means timber grown upon a tract where the primary processing facility is located. A facility for the primary processing of forest products approved under this Section shall meet the standards of Section 410.05(B).

B. Natural Resource

1. The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission, or insect species. Insect species shall not include any species under quarantine by the Oregon Department of Agriculture or the United States Department of Agriculture. Notice of all applications under this Section shall be provided to the Oregon Department of Agriculture. Notice shall be provided in accordance with Section 115.07 but shall not be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.
2. Big game feeding stations within the Big Game Habitat Overlay (BGHO) Zone subject to the following provisions:
  - a. Permanent feeding stations:
    - i. Permanent feeding stations may be allowed as a conditional use in specified zones when in compliance with the following standards:
      - a) The feeding station shall be located on an area inventoried as winter game habitat in the following order of preference:

- 1) On federal lands wherever suitably located to provide feeding sites to minimize winter damage from big game. Such sites shall be exempt from local review.
  - 2) Whenever private land is proposed as a management area/feeding site, said land shall adjoin federally owned land whenever feasible, and the owner(s) of record have joined in the application for permit.
- b) When a site on privately-held land meets the requirements in Section 410.04(B)(2)(a)(i):
- 1) The applicant shall document that:
    - A. Other less-intrusive management techniques (e.g., hazing, fencing, hay stack panels and trapping/removal) have been examined and will not solve the identified problems;
    - B. The project complies with the standards, criteria and other requirements of any feeding station facilities plan adopted by the Oregon Department of Fish and Wildlife (ODFW).
    - C. The project complies with the management objective adopted by ODFW.
    - D. The tract of land shall be sufficient in size to accommodate the projected number of big game animals; or that additional management techniques such as game fences can be designed to overcome anticipated limitations of the parcel's size. A judgment relative to the sufficiency of size shall be based upon the carrying capacity of the air, land, and water resources of the area as measured by the following:
      1. Number of animals;
      2. Topography as it relates to providing cover and bedding areas;
      3. Thermal cover;
      4. Bedding areas;
      5. Hiding cover;
      6. Access; and
      7. Proximity to public lands.
  - 2) The applicant shall describe which of the ODFW programs for minimizing or mitigating off-site damage, such as the Green Forage Program, as authorized by ORS 496.012, are relevant to the proposed use. The proposed use shall be consistent with such programs.
  - 3) The proposed use must comply with all applicable state and federal air and water quality standards, such as the animal waste control provisions of the 208 Water Quality Program.
- ii. Conditions of Approval. The following condition shall be attached to any permit issued for a permanent feeding station: "The feeding station and associated activities must remain in compliance with the terms and conditions imposed by its conditional use permit designed to assure compliance with the approval standards of Section 210.07(A) of the Baker County Zoning Ordinance."

### C. Residential

1. Single-family dwellings not provided in conjunction with farm use, provided that:

- a. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
- b. The dwelling will be sited on a lot or parcel created before January 1, 1993, unless the dwelling and land division are allowed under subsection (2) of this Section.
- c.
  - i. The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, or, in the case of an existing lot or parcel, upon a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and
  - ii. A lot or parcel or portion of a lot or parcel is not “generally unsuitable” simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not “generally unsuitable”. A lot or parcel or portion of a lot or parcel is presumed to be suitable if, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
  - iii. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not “generally unsuitable” simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as part of a forestry operation, it is not “generally unsuitable”. If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominately of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;
- d. The dwelling will not materially alter the stability of the overall land use pattern in the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, Baker County shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the following standards. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the following standards:
  - i. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area of not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from the other, adjacent agricultural areas. Findings shall include the study area, its boundaries, the location of the subject parcel within the area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by

this standard. Lands zone for rural residential or other urban or nonresource uses shall not be included in the study area.

- ii. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under subsections 410.03(B)(4) and 410.04(C)(1) of this Ordinance, including identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(5) and ORS 215.284(4). The findings shall describe the existing land use pattern of the area including the distribution or arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and
  - iii. Determine whether approval of the proposed nonfarm/lot of record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwelling will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and
- e. The dwelling complies with such other conditions as the County considers necessary.
  - f. If a single-family dwelling is established on a lot or parcel as a lot-of-record dwelling set forth in Sections 410.03(B)(4) or 420.03(B)(1) of this Ordinance, as a large tract forest dwelling as set forth in Section 420.03(B)(2) of this Ordinance, as a template test dwelling as set forth in Section 420.04(B)(1) of this Ordinance, or a dwelling established under OAR 660-006-0027, no additional dwelling may be later sited as a single-family dwelling not provided in conjunction with farm use.
  - g. An acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
  - h. No final approval of a nonfarm use under this Section shall be given unless any additional taxes imposed upon the change in use have been paid.
  - i. If the parcel on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 are met.
2. Residential home or facility, as defined in ORS 197.660, in existing dwellings, meeting the criteria in Section 410.05(B) and where an acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).
  3. Room and board arrangements for a maximum of five unrelated persons in existing residences meeting the criteria in Section 410.05(B) and where an acknowledgement of farm and forest practices is recorded with the County Clerk that meets the standards of Section 410.05(C).

#### D. Commercial

1. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203, but excluding activities in conjunction with a marijuana crop. A commercial activity in conjunction with farm use must be either exclusively or primarily a customer or supplier of farm products, provide products or services essential to the practice of agriculture, and/or significantly enhance the farming enterprises of the local agricultural community.
2. Type III Major Home Occupations, subject to the provisions of Section 225.04.
3. Commercial dog boarding kennels, or dog training classes or testing trials that cannot be permitted as a Type II procedure.
4. A destination resort which is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.
5. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.310, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
6. Operations for the extraction and bottling of water, meeting the standards of Section 410.05(B).
7. Equine and equine-affiliated therapeutic and counseling activities, provided:
  - a. the activities are conducted in existing buildings that were lawfully constructed on the property before January 1<sup>st</sup>, 2019, or in new buildings that are accessory, incidental and subordinate to the farm use on the tract; and
  - b. all individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.
8. Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, as permitted in ORS 215.283(4). The use shall comply with the standards in Section 410.05(B).
9. Guest Ranch, in conjunction with an existing commercial cattle, sheep, horse, or bison operation that complies with ORS 215.203, as well as the requirements listed in Chapter 210 and those set forth below.
  - a. A guest ranch may not be sited where the proposed site of the guest ranch is within the boundaries of or surrounded by:
    - i. A federally designated wilderness area or a wilderness study area;
    - ii. A federally designated wildlife refuge;
    - iii. A federally designated area of critical environmental concern; or
    - iv. An area established by an Act of Congress for the protection of scenic or ecological resources.
  - b. The guest ranch shall be located on a lawfully created parcel that is:
    - i. At least 160 acres in size;

- ii. On the parcel on which the primary farm dwelling of the person conducting the livestock operation is located;
  - iii. Is not high-value farmland, as defined in ORS 215.710.
- c. The guest ranch operation shall be incidental and accessory to an existing and continuing livestock operation that qualifies as a farm use. For the purposes of a guest ranch, “livestock” means cattle, sheep, horses and bison. For the purposes of this Section, an existing livestock operation will be defined as a livestock operation that has been in operation for a minimum of one year prior to the date of application for a guest ranch. The livestock operation must remain the primary use of the land. A guest ranch will be incidental and accessory to a livestock operation.
- d. With regard to Section 410.04(A)(4)(a), subject to prior approval by the Decision Making Body, a livestock operation may cease operation for a period of not more than two years due to poor market conditions or such factors as disease within the livestock herd. The guest ranch may continue to operate during such time. If the livestock operation ceases for more than two years, the guest ranch shall cease operation, unless an extension of the two-year time limit is granted by the Planning Director for special circumstances by means of a Type I permit, as governed by Chapter 115.
- e. A ‘guest lodging unit’ means a guest room in a lodge, bunkhouse, cottage or cabin used only for transient overnight lodging and not for a permanent residence. Except as provided in Section 410.04(A)(4)(e), the guest lodging units of the guest ranch cumulatively must:
  - i. Include not fewer than four nor more than 10 overnight guest lodging units; and
  - ii. Not exceed a total of 12,000 square feet in floor area, not counting the floor area of a lodge that is dedicated to kitchen area, rest rooms, storage or other shared or common indoor space.
- f. For every increment of 160 acres that the lawfully established unit of land on which the guest ranch is located exceeds the minimum 160-acre requirement described in Section 410.04(A)(4)(a), up to five additional overnight guest lodging units not exceeding a total of 6,000 square feet of floor area may be included in the guest ranch for a total of not more than 25 guest lodging units and 30,000 square feet of floor area.
- g. Ranch and recreational activities provided in conjunction with a guest ranch shall include:
  - i. A guest ranch may provide passive recreational activities that can be provided in conjunction with the livestock operation’s natural setting, including, but not limited to, hunting, fishing, hiking, biking, horseback riding, camping and swimming.
  - ii. Intensively developed recreational facilities such as golf courses and campgrounds, as described in ORS 215.283(2)(c), whether existing or planned, shall not be provided in conjunction with the operation of a guest ranch.
- h. Food services shall be incidental to the operation of the guest ranch and shall be provided only for guests of the guest ranch, individuals accompanying the guests and individuals attending a special event at the guest ranch. The cost of meals, if any, may be included in the fee to visit or stay at the guest ranch. A guest ranch may not sell individual meals to an individual who is not

a guest of the guest ranch, an individual accompanying a guest or an individual attending a special event at the guest ranch.

- i. Notwithstanding ORS 215.263, a proposed division of land in an Exclusive Farm Use Zone for a guest ranch shall not be approved.
- j. A guest ranch shall not be separated from the primary farm dwelling of the person conducting the livestock operation.
- k. Transfer of conditional use approval for a guest ranch operation to a new owner/livestock operator shall be subject to approval by the Decision Making Body and a new Type III conditional use review.
- l. A guest ranch that is authorized by a county under this Section on or after January 1, 2020, shall annually report to the county. The records shall be made available to the public, upon request. The report must contain:
  - i. The size of the guest ranch's livestock operation;
  - ii. The income that the guest ranch obtained from:
    - a) Livestock operations; and
    - b) Guest ranch activities; and
    - c) Other information the county may require to ensure ongoing compliance with this Section or any condition of approval required by the county.

10. Parking up to seven log trucks.

11. A restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery that is described in ORS 215.453 that occur on more than 25 days in a calendar year. The use must meet the standards included in Section 410.05(B).

E. Mineral, Aggregate, Oil, and Gas. All uses in this subsection must meet the standards included in Sections 410.05(B) and (D).

1. Uses:

- a. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other sub-surface resources, subject to ORS 215.298.
- b. Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement. New uses that batch and blend the mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
- c. Processing of other mineral resources and other sub-surface resources.
- d. Operations conducted for mining and processing of geothermal resources, as defined by ORS 522.005, and oil and gas, as defined by ORS 520.005, not otherwise permitted.



F. Transportation. All uses in this subsection must meet the standards included in Section 410.05(B).

1. Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.
2. Personal-use airports for airplanes and helicopter pads including associated hangar, maintenance and service facilities. A personal-use airport as used in this Section means an airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by invited guest(s), and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under the definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

G. Utility/Solid Waste Disposal Facilities

1. Transmission towers over 200 feet in height, subject to the provisions set forth in Chapter 740.
2. Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities. Permanent features of a power generation facility shall not use, occupy or cover more than 20 acres (or 12 acres on high value farmland) unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to Section 410.05(B) and shall have no effect on the original approval.
3. A Small-Scale Wind Power Generation Facility, if sited on high-value farmland, subject to the provisions of Chapter 750. A wind power generation facility under this Section shall meet the standards of Section 410.05(B).
4. A Commercial Wind Power Generation Facility, subject to the provisions of Chapter 750. A solar facility under this Section shall meet the standards of Section 410.05(B).
5. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760. A solar facility under this Section shall meet the standards of Section 410.05(B).
6. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760. A solar facility under this Section shall meet the standards of Section 410.05(B).
7. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760 shall meet the standards of Section 410.05(B).

8. A site for the disposal of solid waste approved by the governing body of Baker County and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation. This use is not permitted on high-value farmland except that existing facilities on high-value farmland may be maintained, enhanced or expanded on the same tract subject to other requirements of law. Sites for disposal of solid waste under this Section shall meet the standards of Section 410.05(B).
9. Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060. Composting operations that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract are allowed uses, while other composting operations are subject to the review standards of ORS 215.296. Buildings and facilities used in conjunction with the composting operation shall only be those required for operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. Composting operations and facilities allowed on high-value farmland are limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
  - a. Composting facilities under this Section shall meet the standards of Section 410.05(B).

#### H. Parks/Public/Quasi-Public

1. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for the residents of the rural area in which the school is located. Schools shall meet the standards in Section 410.05(B). This use is not permitted on high-value farmland. Reference ORS 215.135 for expansion of schools.
2. Private parks, playgrounds, hunting and fishing preserves and campgrounds can be permitted on land not designated as high-value farmland, when the standards of Sections 410.05(A) and (B) are met. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. Private campgrounds shall only be those allowed subject to the following:
  - a. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites, except that electrical service may be provided to yurts allowed in subsection (b) of this Section.
  - b. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.
  - c. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
3. Public parks and playgrounds can be permitted on land not designated as high value farmland when established consistent with the provisions of ORS 195.120 and meeting the standards of Sections 410.05(A) and (B). Public parks may only include the uses specified under OAR 660-035-0035 or 660-034-0040, whichever is applicable.

4. Community centers owned by a governmental agency or a non-profit organization and operated primarily by and for residents of the local rural community. A community center authorized under this paragraph may provide services to veterans, including, but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1<sup>st</sup>, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services. A community center must meet the standards in Sections 410.05(A) and (B).
5. Golf courses on land determined not to be high-value farmland as defined in ORS 195.300(10), with accessory uses limited as described in OAR 660-033-0130(19). Non-regulation golf courses are not allowed in the Exclusive Farm Use zone, including, but not limited to par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.
6. Living history museum. "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in this rule, a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65. Living history museums must meet the standards in Sections 410.05(A) and (B).
7. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
8. An outdoor mass gathering of more than 3,000 persons any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735 is subject to review under the provisions of ORS 433.763.
9. Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306, subject to the standards in Section 410.05(B).

Youth camps on land that is composed predominately of Class VI, VII or VIII soils, meeting the standards of Section 410.05(B) and OAR 660-033-0130 (40).

#### **410.05 Standards for Certain Uses in the EFU Zone**

A. As specified above, certain facilities in the EFU Zone shall comply with the following standards:

1. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 34.
  2. Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this Section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.
  3. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.
- B. As specified above, certain uses in the EFU Zone shall demonstrate that the following criteria are met:
1. The use will not force a significant change in accepted farming practices on surrounding lands devoted to farm or forest use; and
  2. The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- C. As a condition of approval of a single-family dwelling allowed in the Exclusive Farm Use Zone, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- D. Extraction, exploration and processing of resources and related mining activities shall demonstrate compliance with the following approval criteria in addition to the general approval criteria contained in Section 210.04:
1. Plans and specifications must contain sufficient information to allow the Decision Making Body to consider and set standards pertaining to the following:
  2. The most appropriate use of the land.
  3. Setbacks from property lines.
  4. The protection of pedestrians and vehicles through the use of fencing, screening and setbacks.
  5. The protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants.
  6. The prevention of the collection and stagnation of water of all stages of the operation.
  7. The rehabilitation of the land upon termination of the operation including consideration of final slope of cut banks and leveling and/or restoration of terrain.
  8. Surface mining equipment, the mining process itself, and necessary access roads shall be constructed, maintained and operated in conformance with the standards and regulations of the

Oregon Department of Geology and Mineral Industries (DOGAMI) and the Department of Environmental Quality (DEQ).

E. Explanation acceptable to the County is provided to demonstrate that:

1. Existing public services, utilities, and road systems are adequate to accommodate the proposed use, or that any such need will be provided by the applicant.
2. The proposed development is designed to minimize adverse impacts to existing terrain, slope, and ground cover and to protect the immediate and surrounding area from potential adverse impacts caused by surface water run-off.
3. Water, both in terms of quantity and quality, is available and adequate for the use, and adequate provisions for solid waste disposal will be provided.
4. The use complies with such other conditions, as the Planning Commission considers necessary. Conditions of approval must be consistent with the standards of ORS 215.296.

#### **410.06 Minimum Parcel Size**

A. General Exceptions to Parcel Size Requirements.

1. Any parcel of land or portion thereof which has been or is to be dedicated to a public or semi-public entity for a road, railroad, utility or other public use shall be entitled to an adjustment from the minimum parcel size requirement set forth by this Ordinance. The adjustment shall be limited to the amount of land dedicated to and accepted for public use.
2. Minimum requirements relative to lot size, where applicable, shall be considered as standard metes and bounds land section divisions. Therefore, lot sizes may be smaller than set forth in this Ordinance if a total section acreage reduction is due to a U.S. Public Lands survey adjustment.
3. Statutory "*Lot of Record*" provisions (Sections 9-13, Chapter 884, Oregon Laws 1981, as amended by Sections 14 and 15, Chapter 826, Oregon Laws 1983) may provide a development right for sub-standard sized lots or parcels if said lot(s) or parcels qualify under the law. If the parcel on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 apply.

B. Except as provided for under Section 410.06(A), new parcels in the EFU Zone shall comply with the following minimum parcel size requirements:

1. 80 acres if fully covered by valid primary water rights.
2. 160 acres for non-irrigated land or 2 acres for each dry acre less than 80 for land partially covered by valid primary water rights. For example, 60 acres of irrigated land would require a minimum parcel size of 100 acres ( $80 - 60 = 20$ ;  $20 \times 2 = 40$ ;  $60 \text{ irrigated acres} + 40 \text{ non-irrigated acres} = 100 \text{ acres}$ ).
3. In the EFU Zone, a parcel created to accommodate a conditional use shall comply with the following requirements:

- a. The proposed parcel shall be the minimum amount of land necessary for the proposed use, considering applicable state and local standards and the criteria set forth in this Ordinance, but shall be no less than 2 acres; and
  - b. The remaining parcel complies with the requirements under Sections 410.05(B)(1) or (2), as applicable.
4. If land in the EFU Zone is also located in the Big Game Habitat Overlay, the minimum parcel size standards of Section 620.04 apply for all lot of record or nonfarm dwellings.
  5. For non-farm partitions in the Big Game Habitat Overlay, the minimum parcel size shall be 40 acres.
  6. The minimum parcel size for a farm related dwelling shall be 160 acres if covered with at least 160 acres of valid primary water rights or 320 acres if non-irrigated, or a combination thereof, except that there shall be 2 acres for each dry acre less than 160. For example, 100 acres of land with valid primary water rights would require a minimum parcel size of 220 acres (160 - 100 = 60; 60 x 2 = 120; 100 irrigated acres + 120 non-irrigated acres = 220 acres).

#### C. Land Divisions for Non-Farm Parcels

1. A division of land in an exclusive farm use zone to create up to two new parcels smaller than the minimum parcel size established in Section 410.06(B), each to contain a dwelling not provided in conjunction with farm use if:
  - a. The nonfarm dwellings have been approved under Section 410.04(C)(1); and
  - b. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
  - c. The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum parcel size established under Sections 410.06(B)(1) & (2);
  - d. The remainder of the original lot or parcel that does not contain the nonfarm dwelling complies with the minimum size established under Sections 410.06(B)(1) & (2); and
  - e. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
2. A division of land in an exclusive farm use zone to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use if:
  - a. The nonfarm dwellings have been approved under Section 410.04(C)(1); and
  - b. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

- c. The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size established under Sections 410.06(B)(1) & (2), but equal to or larger than 40 acres; and
  - d. The parcels for the nonfarm dwellings are:
    - 1) Not capable of producing at least 20 cubic feet per acre per year of wood fiber; and
    - 2) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90 percent class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. A parcel that produces, or is capable of producing, 1,050<sup>1</sup> or more total pounds of dry matter per acre in a normal year, as calculated using the Natural Resources Conservation Service Soil Survey for Baker County, is considered to produce adequate herbaceous forage for the purposes of this Section.
  - e. The parcels for nonfarm dwellings do not have established water rights for irrigation; and
  - f. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
  - g. If the parcel(s) on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 are met.
- 3. This Section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
  - 4. This Section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
  - 5. No land division may be approved for a lot or parcel described in ORS 215.283(1)(d) or (2)(L), or a proposed division that separates a facility for the processing of farm products, as defined in ORS 215.255, from the farm operation.

**Chapter 420**  
**TIMBER-GRAZING ZONE (TG)**

- 420.01 Purpose**
- 420.02 Uses Permitted Through a Type I Procedure**
- 420.03 Uses Permitted Through a Type II Procedure**
- 420.04 Uses Permitted Through a Type III Procedure**
- 420.05 Minimum Lot Size**
- 420.06 Siting Standards for Structures and Dwellings**
- 420.07 Additional Approval Criteria for Type III Uses**
- 420.08 Youth Camps**

**420.01 Purpose.** The purpose and intent of the Timber-Grazing (TG) Zone is to provide areas for the continued practice of grazing for domestic livestock as well as timber production, harvest, and protection of these areas from the hazards of fire, pollution, and the conflicts of urbanization. It is the intent of the TG Zone to preserve and protect watersheds, wildlife habitats and other uses associated with the forest, and to conserve and maintain the aesthetic value of the forest area. Since public and private forest lands in Baker County are managed for multiple uses, the County has designated the forest lands under its jurisdiction as mixed use forest land.

This Zone is adopted in conformance with OAR 660-006-0050, which allows the combination of uses allowed in Exclusive Farm Use and agricultural forest zones.

**420.02 Uses Permitted Through a Type I Procedure.** In the TG Zone the following uses and their accessory uses shall be permitted outright when authorized in accordance with the provisions of Section 115.05.

A. Farm/Forest Resource.

1. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.
2. Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation.
3. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.

Note: For the purposes of subsections 1 to 3 above, “auxiliary” means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest’s entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

4. Temporary portable facility for the primary processing of forest products.
5. Towers and fire stations for forest fire protection. The standards in Section 420.06, in addition to other applicable standards, shall be met.



6. Temporary forest labor camps. The standards in Section 420.06, in addition to other applicable standards, shall be met.
7. Farm use, as defined in ORS 215.203.
8. An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building authorized by this Section to another use. The standards in Section 420.06, in addition to other applicable standards, shall be met.

B. Natural Resource.

1. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
2. Uninhabitable structures accessory to fish and wildlife enhancement.

C. Commercial.

1. Type I Minor Home Occupations, subject to the provisions of Section 225.02.
2. Private hunting and fishing operations without any lodging accommodations.
3. An outdoor mass gathering as defined in ORS 433.735, subject to the provisions of ORS 433.735 to 433.770;
4. Dump truck parking as provided in ORS 215.311.

D. Utility Facilities. Structures shall meet the standards of Section 420.06.

1. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
2. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
3. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
4. Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups;
5. Water intake facilities, canals and distribution lines for farm irrigation and ponds.

E. Transportation.

1. Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans and public road and highway projects as described in ORS 215.213(1) and 215.283(1).

F. Mineral, Aggregate, Oil and Gas Use.

1. Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
2. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head;

**420.03 Uses Permitted Through a Type II Procedure.** In the TG Zone the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06. All structures and dwellings shall meet the siting standards of Section 420.06.

A. Residential. To ensure that forest operations and accepted farming practices will not be curtailed or impeded, a non-exclusive Acknowledgement of Farm and Forest Practices shall be filed with the County Clerk prior to development authorization for a dwelling or other use where specified. Such Acknowledgement shall specify that owners of farm and forest enterprises have the right to conduct legal farm and forest practices, and the owner of the subject property, as well as subsequent owners, waive all rights to object to legal farm and forest activities. Additionally, all residences shall adhere to the standards in Section 420.06, Siting Standards for Structures and Dwellings.

1. Lot of Record Dwellings authorized by ORS 215.705 through 215.720 and OAR 660-006-0027 subject to the following:
  - a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner as defined in Chapter 150:
    - i. Prior to January 1, 1985; or
    - ii. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
  - b. The tract on which the dwelling will be sited does not include a dwelling;
  - c. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
  - d. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law.
  - e. The lot or parcel on which the dwelling will be sited, if zoned for forest use, is described in ORS 215.720, ORS 215.740, or ORS 215.750.
  - f. In accordance with ORS 215.720, the tract on which the dwelling will be sited is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:
    - i. A United States Bureau of Land Management (BLM) road;

- ii. A United States Forest Service (USFS) road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the USFS and landowners adjacent to the road, a local government or a state agency.
- g. If the parcel on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 are met.
- h. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
- i. When approval for a single-family dwelling is granted to an application under the provisions of this Section, the application may be transferred by a person who has qualified under this Section to any other person after the effective date of the land use decision.
- j. A county may, by application of criteria adopted by ordinance, deny approval of a dwelling allowed under this section in any area where the county determines the approval of the dwelling would:
  - i. Exceed the facilities and service capabilities of the area;
  - ii. Materially alter the stability of the overall land use pattern in the area; or
  - iii. Create conditions of circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.
- k. A local government shall require as a condition of approval of a single-family dwelling allowed under Section (B)(1) above on lands zoned forestland that:
  - i. If the lot or parcel is more than 30 acres in eastern Oregon as defined in ORS 321.805, the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
  - ii. The dwelling meets the following requirements:
    - (a) The dwelling has a fire retardant roof.
    - (b) The dwelling will not be sited on a slope of greater than 40 percent.
    - (c) Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class II stream as designated by the State Board of Forestry.
    - (d) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.
    - (e) If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.
    - (f) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.
    - (g) The owner provides and maintains a primary fuel-break and secondary break areas on land surrounding the dwelling that is owned and controlled by the owner.

- iii. If a governing body determines that meeting the requirement of subsection (k)(ii)(d) of this Section would be impractical, the governing body may provide an alternative means for protecting the dwelling from fire hazards. This means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions.
- iv. If a water supply is required under subsection (iii), it shall be a swimming pool, pond, lake or similar body of water that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment.

## 2. Large Tract Dwellings.

- a. If a dwelling is not allowed, pursuant to ORS 215.720, a dwelling may be allowed if it complies with other provisions of law and is sited on a tract that does not include a dwelling.
- b. The dwelling may be sited on a tract in eastern Oregon of at least 240 contiguous acres or 320 non-contiguous acres held in common ownership in the same county or adjacent counties and are zoned for forest use.
- c. A tract shall not be considered to consist of less than 240 acres or 160 acres because it is crossed by a public road or a waterway.
- d. A deed restriction shall be filed for all tracts that are used to meet the acreage requirements of this Section. The deed restriction shall preclude all future rights to construct a dwelling on the tracts or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural lands or forestlands.
- e. The applicant for a dwelling authorized by (2)(a) and (b) of this Section shall provide evidence that the following covenants, conditions and restrictions have been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located;
  - i. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;
  - ii. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;
  - iii. The failure to follow the requirements of the Section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this Section;
  - iv. The Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records, pursuant to this Section, and a map or other record depicting tracts which do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records, pursuant to this Section. The

map or other record required by this Section shall be readily available to the public in the county planning office.

3. Temporary Hardship Dwellings authorized by OAR 660-006-0025, which includes a manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident as defined in ORS 215.283, subject to the following:
  - a. The manufactured dwelling shall use the same sub-surface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required.
  - b. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed non-residential use. Department of Environmental Quality review and removal requirements also apply.
  - c. A temporary residence approved under this Section is not eligible for replacement under Section 420.03(A)(5).
  - d. When the hardship ends, the governing body or its designate shall require the removal of such mobile homes.
  - e. Governing bodies shall review the permit authorizing such manufactured homes every two years.
  - f. As used in this Section, "*hardship*" means a medical hardship or hardship for the care of an aged or infirm person or persons as defined in OAR 660-006-0025(4)(t).
4. Caretaker residences for public parks and public fish hatcheries.
5. Replacement Dwellings. Alteration, restoration or replacement of a lawfully established dwelling that:
  - a. Has intact exterior walls and roof structures;
  - b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - c. Has interior wiring for interior lights;
  - d. Has a heating system.
  - e. In the case of replacement, is removed, demolished or converted to an allowable non-residential use within three months of the completion of the replacement dwelling.

B. Commercial.

1. Destination resorts reviewed and approved, pursuant to ORS 197.435 to ORS 197.467 and Goal 8.

C. Transportation.

1. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.

D. Utility/Solid Waste Disposal Facilities.

1. A Small-Scale Wind Power Generation Facility if precluding fewer than 10 acres from use as a commercial forest production, subject to the provisions of Chapter 750.

**420.04 Uses Permitted Through a Type III Procedure.** In the TG Zone, the following uses may be permitted when authorized in accordance with the provisions of this Section and Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210 and Section 420.07, as well as the siting criteria in Section 420.06.

A. Farm/Forest Resource.

1. Permanent facility for the primary processing of forest products that is:
  - a. Located in a building or buildings that do not exceed 10,000 square feet in total floor area, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or a proportionate combination of indoor and outdoor areas; and
  - b. Adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by the governing body.
2. Permanent logging equipment repair and storage.
3. Log scaling and weigh stations.
4. Big game feeding stations and wildlife management areas within the Big Game Habitat Overlay (BGHO) Zone, subject to the following provisions:
  - a. Permanent feeding stations:
    1. Permanent feeding stations may be allowed as a conditional use in specified zones when in compliance with the following standards:
      - a) The feeding station shall be located on an area inventoried as winter game habitat in the following order of preference:
        - 1) On federal lands wherever suitably located to provide feeding sites to minimize winter damage from big game. Such sites shall be exempt from local review.
        - 2) Whenever private land is proposed as a management area/feeding site, said land shall adjoin federally owned land whenever feasible, and the owner(s) of record have joined in the application for permit.

b) When a site on privately-held land meets the requirements in Section 420.04(A)(4)(a)(1):

1) The applicant shall document that:

- i. Other less-intrusive management techniques (e.g., hazing, fencing, hay stack panels and trapping/removal) have been examined and will not solve the identified problems;
- ii. The project complies with the standards, criteria and other requirements of any feeding station facilities plan adopted by the Oregon Department of Fish and Wildlife (ODFW).
- iii. The project complies with the management objective adopted by ODFW.
- iv. The tract of land shall be sufficient in size to accommodate the projected number of big game animals; or that additional management techniques such as game fences can be designed to overcome anticipated limitations of the parcel's size. A judgment relative to the sufficiency of size shall be based upon the carrying capacity of the air, land, and water resources of the area as measured by the following:
  - a. Number of animals;
  - b. Topography as it relates to providing cover and bedding areas;
  - c. Thermal cover;
  - d. Bedding areas;
  - e. Hiding cover;
  - f. Access; and
  - g. Proximity to public lands.

2) The applicant shall describe which of the ODFW programs for minimizing or mitigating off-site damage, such as the Green Forage Program, as authorized by ORS 496.012, are relevant to the proposed use. The proposed use shall be consistent with such programs.

3) The proposed use must comply with all applicable state and federal air and water quality standards, such as the animal waste control provisions of the 208 Water Quality Program.

c) Conditions of Approval. The following condition shall be attached to any permit issued for a permanent feeding station: "The feeding station and associated activities must remain in compliance with the terms and conditions imposed by its conditional use permit designed to assure compliance with approval standards."

b. Emergency feeding stations shall be approved when the following is met:

1. Written notice will be provided to the Planning Director as to the location of emergency feeding stations or feeding sites on private or public land, said notice to be provided within 15 days of the establishment of said feeding station. After notification of the siting of an emergency feeding station, the Planning Director will send written notice of that siting to

abutting landowners and operators. Upon written request of any abutting landowner, a public hearing will be scheduled for review and approval or disapproval of the feeding site within 30 days of the close of the feeding site for the season.

2. The applicable decision criteria shall be as follows. The emergency feeding station operators shall demonstrate that:
  - a) The permanent feeding station criteria cannot be applied;
  - b) The feeding station is located in an area where there is reasonable evidence that its operation will effectively reduce or prevent significant damage by big game to private property or otherwise solve the emergency; and
  - c) Where the purpose of the feeding station is for damage control, other less intrusive management techniques (e.g., hazing and fencing) have been utilized and have not solved the identified problem.
3. The operators of emergency feeding stations in existence at the time of acknowledgment of this Ordinance shall submit an application prior to the next feeding season to approve the location by means of a Type III procedure, as governed by Chapter 115.
5. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

B. Residential.

1. Template Test Dwellings.
  - a. A single family dwelling may be established on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:
    - i. Capable of producing 0 to 20.99 cubic feet per acre per year of wood fiber if:
      - 1) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square or rectangle centered on the center of the subject tract; and
      - 2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
    - ii. Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:
      - 1) All or a part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square or rectangle centered on the center of the subject tract; and
      - 2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
    - iii. Capable of producing more than 50 cubic feet per acre per year of wood fiber if:



- 1) All of part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square or rectangle centered on the center of the subject tract; and
  - 2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
- b. Lots or parcels within urban growth boundaries may not be used to satisfy the eligibility requirements under this Section.
  - c. Except as provided by Section 420.04(B)(1)(d), if the tract under this rule abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and  $\frac{1}{4}$  mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.
  - d. If a tract 60 acres or larger described under this Section abuts a road or perennial stream, the measurement shall be made in accordance with Section 420.04(B)(1)(c). However, one of the three required dwellings must be on the same side of the road or stream as the tract, and:
    - i. Be located within a 160-acre rectangle that is one-mile-long and  $\frac{1}{4}$  mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or
    - ii. Be within  $\frac{1}{4}$  mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.
  - e. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.
  - g. A proposed dwelling provided for under this Section is allowed only if:
    - i. It will comply with the requirements of the Baker County Comprehensive Plan, the Baker County Zoning Ordinance, and other provisions of law;
    - ii. It complies with the requirements of OAR 660-006-0029 and 660-006-0035;
    - iii. A deed restriction is filed for all tracts that are used to meet the acreage requirements of this Section. The deed restriction shall preclude all future rights to construct a dwelling on the tract or to use the tract to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural lands or forestlands.
    - iv. The tract on which the dwelling will be sited does not include a dwelling;
    - v. The lot or parcel on which the dwelling will be sited was lawfully established;
    - vi. Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
    - vii. Any property line adjustment to the lot or parcel after January 1<sup>st</sup>, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this Section; and

- viii. If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.
- ix. If the parcel on which the dwelling will be sited is within the Big Game Habitat Overlay, the minimum parcel size requirements of Section 620.04 are met.

C. Commercial.

1. Private seasonal accommodations for fee hunting operations may be allowed subject to OAR 660-006-0025(5), OAR 660-006-0029, and OAR 660-006-0035 and the following requirements:
  - a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Specialty Codes;
  - b. Only minor incidental and accessory retail sales are permitted;
  - c. Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
  - d. A governing body may impose other appropriate conditions.
2. Private accommodations for fishing occupied on a temporary basis may be allowed subject to OAR 660-006-0025(5), OAR 660-006-0029, and OAR 660-006-0035 and the following requirements:
  - a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Specialty Codes;
  - b. Only minor incidental and accessory retail sales are permitted;
  - c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
  - d. Accommodations must be located within ¼ mile of fish bearing Class I waters; and
  - e. A governing body may impose other appropriate conditions.
3. Type III Major Home Occupations, subject to the provisions of Section 225.03.
4. An outdoor mass gathering:
  1. Of more than 3,000 persons, any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735. In addition to the review standards in Section 420.07, the county must make findings required by ORS 433.763(1)(c).
  2. As defined by ORS 433.735, for which a county decides that a land use permit is required. In addition to findings required by ORS 433.763(1), a county may, when determining review standards, include all, some, or none of the review standards in Section 420.07.

D. Mineral, Aggregate, Oil and Gas Use.

1. Uses:

- a. Mining and processing of oil, gas, or other sub-surface resources, as defined in ORS 520, and not otherwise permitted under Section 420.02(F)(2), (e.g. compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS 517.

2. Criteria:

- a. Extraction, exploration and processing of resources and related mining activities shall demonstrate compliance to the following approval criteria in addition to the general approval criteria contained in Section 210.04:
  - i. Plans and specifications must contain sufficient information to allow the Decision Making Body to consider and set standards pertaining to the following:
  - ii. The most appropriate use of the land.
  - iii. Setback from the property line.
  - iv. The protection of pedestrians and vehicles through the use of fencing, screening and setbacks.
  - v. The protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants.
  - vi. The prevention of the collection and stagnation of water of all stages of the operation.
  - vii. The rehabilitation of the land upon termination of the operation including consideration of final slope of cut banks and leveling and/or restoration of terrain.
- b. Surface mining equipment, the mining process itself, and necessary access roads shall be constructed, maintained and operated in conformance with the standards and regulations of the Oregon Department of Geology and Mineral Industries (DOGAMI) and the Department of Environmental Quality (DEQ).

E. Transportation.

1. Expansion of existing airports.
2. Public road and highway projects as described in ORS 215.283(2)(q) through (s) and ORS 215.283(3).
3. Aids to navigation and aviation.

F. Utility/Solid Waste Disposal Facilities.

1. A Small-Scale Wind Power Generation Facility, if precluding more than 10 acres from use as a commercial forest operation, in which case the *Small-Scale Wind Power Generation Facility* shall be

authorized in accordance with the Type III procedure provisions of Chapter 115.07, and an exception must be taken pursuant to OAR 660-004.

2. A Commercial Wind Power Generation Facility, subject to the provisions of Chapter 750.
3. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760
4. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
5. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
6. A site for the disposal of solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
7. Television, microwave, and radio communication facilities and transmission towers.
8. Reservoirs and water impoundments.
9. New electric transmission lines with right of way widths of up to 100 feet, as specified in ORS 772.210.
10. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width, as specified in ORS 772.210.
11. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
12. Commercial utility facilities for the purposes of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 4.

G. Parks/Public/Quasi-Public.

1. Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.
2. Firearms training facility, as provided in ORS 197.770(2).
3. Cemeteries.
4. Private parks and campgrounds. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. Campgrounds authorized by this Section shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

- a. Vacation or recreational purposes. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds devoted to vacation or recreational purposes shall not be allowed within three miles of an urban growth boundary unless an exception is approved, pursuant to ORS 197.732 and OAR 660-004. Campgrounds approved under this subsection must be found to be established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground and designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
  - i. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by the following paragraph.
- b. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

5. Fire stations for rural fire protection.

**420.05 Minimum Lot Size.** In the Timber-Grazing Zone, the following minimum parcel sizes shall be required:

- A. For forest/farm use: 80 acres.
- B. A governing body shall apply the standards of this Section and Section 410.06 to determine the proper minimum lot or parcel size for a mixed agriculture/forest zone. These standards are designed: To make new land divisions compatible with forest operations; to maintain the opportunity for economically efficient forest and agriculture practices; and to conserve values found on forest lands.
- C. New land divisions less than the parcel size in Section (B) above may be approved for any of the following circumstances:
  - 1. For the uses listed in Sections 420.02(B)(2), 420.02(G)(2), 420.03(C)(1), 420.04(A)(1) to (3), 420.04(D), 420.04(E)(3), 420.04(F)(1), (6) to (8), (11) and (12), and 420.04(G)(1) to (4) provided that such uses have been approved pursuant to Section 420.07 and the land division created is the minimum size necessary for the use.
  - 2. For the establishment of a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

- a. The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres; and
  - b. The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:
    - i. Meets the minimum land division standards of this zone; or
    - ii. Is consolidated with another parcel, and together the parcels meet the minimum land division standards of this zone.
  - c. The minimum tract eligible under subsection (2) of this Section is 40 acres;
  - d. The tract shall be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321; and
  - e. The remainder of the tract does not qualify for any uses allowed under Chapter 410 that are not allowed on forestland.
3. To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of subsection (1) of this Section. Parcels created pursuant to this subsection:
- a. Are not eligible for siting of a new dwelling;
  - b. May not serve as the justification for the siting of a future dwelling on other lots or parcels;
  - c. May not, as a result of the land division, be used to justify redesignation or rezoning of resource land; and
  - d. May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:
    - i. Facilitate an exchange of lands involving a governmental agency; or
    - ii. Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forestland.
4. To allow a division of a lot or parcel zoned for mixed farm and forest use if:
- a. At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
  - b. Each dwelling complies with the criteria for a replacement dwelling under Section 420.02(B)(2);
  - c. Except for one lot or parcel, each lot or parcel created under this Section is between two and five acres in size;
  - d. At least one dwelling is located on each lot or parcel created under this Section; and
  - e. The landowner of a lot or parcel created under this Section provides evidence that a restriction prohibiting the landowner and the land owner's successors in interest from further dividing the lot or parcel has been recorded with the county clerk of the county in which the lot or

parcel is located. A restriction imposed under this Section shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the lot or parcel is located indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide goal 4 (Forest Lands) or unless the land division is subsequently authorized by law or by a change in statewide goal 4 (Forest Land);

5. To allow a proposed division of land as provided in ORS 215.783.

D. A county planning director shall maintain a record of lots and parcels that do not qualify for division under the restrictions imposed by Section 420.05(C)(4) and (E). The record shall be readily available to the public.

E. A lot or parcel may not be divided under Section 420.05(C)(4) if an existing dwelling on the lot or parcel was approved under:

1. A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or
2. A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under statewide goal 4 (Forest Lands).

F. Restrictions.

1. An applicant for the creation of a parcel pursuant to subsection (2)(b) of this rule shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under Section (2) of this rule.
2. A restriction imposed under this Section shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.
3. The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this Section. The record shall be readily available to the public.
4. A landowner allowed a land division under Section (2) of this rule shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

G. If land in the TG Zone is also located in the Big Game Habitat Overlay, the minimum parcel size standards of Section 620.04 apply for all lot of record or template test dwellings.

#### **420.06 Siting Standards for Structures and Dwellings**

- A. The following siting standards or their equivalent shall apply to all new dwellings and structures in forest zones. These standards are designed to make structural development compatible with forest operations and agriculture, to minimize wildfire hazards and risks, and to conserve values found on forest lands:
1. All new dwellings and structures shall be sited on the parcel according to the following standards:
    - a. To ensure that the amount of forest land used to site access roads, service corridors, the dwelling, and structures is minimized, the dwelling shall be located near an existing road.
    - b. To ensure that the risks associated with wildfire are minimized, the dwelling shall be located on a level or near level portion of the parcel.
    - c. To ensure that the dwelling or structure will have the least impact on nearby or adjoining forest or agricultural lands, the dwelling or structure shall, when not in conflict with Section 420.06(A)(1)(a) or Section 420.06(A)(1)(b):
      - i. be located near the center of the property to maintain maximum distance between the dwelling or structure and the adjoining properties; or
      - ii. be clustered near other structures currently existing on the parcel.
    - d. When not in conflict with Section 420.06(A)(1), Section 420.06(A)(2) or Section 420.06(A)(3), the dwelling shall be sited on that portion of the parcel least suited for growing trees.
  2. To ensure that forest operations and accepted farming practices will not be curtailed or impeded, a non-exclusive Acknowledgement of Farm and Forest Practices shall be filed with the County Clerk prior to development authorization for a dwelling or other use where specified. Such Acknowledgement shall specify that owners of farm and forest enterprises have the right to conduct legal farm and forest practices, and the owner of the subject property, as well as subsequent owners, waive all rights to object to legal farm and forest activities.
  3. The applicant shall provide evidence to the Planning Director or the Planning Commission that the domestic water supply is from a source authorized in accordance with rules promulgated by the Oregon Department of Water Resources for the appropriation of ground water or surface water and is not from an intermittent (a Class II) stream as defined in the Forest Practices Rule. If the water supply is unavailable from public sources or sources located entirely on the property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.
  4. The applicant must meet the following Fire Siting Standards or their equivalent:
    - a. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is



required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

- b. Road access to the dwelling shall meet following fire safety road design standards:
    - i. The governing body shall establish road design standards, except for private roads and bridges accessing only commercial forest uses, which ensure that public roads, bridges, private roads and driveways are constructed so as to provide adequate access for firefighting equipment. Such standards shall address maximum grade, road width, turning radius, road surface, bridge design, culverts, and road access taking into consideration seasonal weather conditions. The governing body shall consult with the appropriate Rural Fire Protection District and Forest Protection District in establishing these standards.
  - c. The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.
  - d. The dwelling shall have a fire retardant roof.
  - e. The dwelling shall not be sited on a slope of greater than 40 percent.
  - f. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.
5. Private roads and driveways shall be constructed to meet the specifications listed under Fire Safety Design Standards for Roads in Section 420.06(A)(4)(b)(i), and to the transportation standards listed in Chapter 320.

#### **420.07 Additional Approval Criteria for Type III Uses**

- A. For Type III uses, in addition to the applicable standards in Chapter 210, the applicant shall demonstrate that the following criteria have been satisfied. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:
- 1. The proposed use will not force a significant change in, alter the stability of, or significantly increase the cost of accepted farming or forest practices on agriculture or forest lands.
  - 2. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

3. The proposed use will not adversely affect important wildlife habitat, pursuant to criteria contained within Article 6 of this Ordinance.
4. The use is compatible with other forest uses in the nearby area, including:
  - a. Maintenance of grazing land for livestock.
  - b. Watershed protection.
  - c. Soil protection from wind and water.
  - d. Maintenance of outdoor recreational activities and related support services.
  - e. Maintenance of values compatible with forest uses.
  - f. Open space, buffers from noise, visual separation of conflicting uses.
5. A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in Sections 420.04(B)(1), 420.04(C)(2) & (3), 420.04(G)(4), 420.04(F)(8).
6. Planned access to interior tracts shall be required when dealing with road-front parcels.
7. The proposed use must comply with Oregon Administrative Rules 660-006-0025, 660-006-0027, 660-006-0029, 660-006-0035 and 660-006-0040.
8. The use complies with such other conditions, as the Planning Commission considers necessary. Conditions of approval must be consistent with the standards of ORS 215.296.

#### **420.08 Youth Camps**

- A. A youth camp may be established in compliance with the provisions of this rule. The purpose of this rule is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment.
- B. Changes to or expansions of youth camps established prior to the effective date of this rule shall be subject to the provisions of ORS 215.130.
- C. A "youth camp" is a facility either owned or leased, and operated by a state or local government, or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility.
- D. An application for a proposed youth camp shall comply with the following:

1. The number of overnight camp participants that may be accommodated shall be determined by the governing body, or its designate, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by subsection (D)(2) of this rule a youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff.
  2. The governing body, or its designate, may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under subsection (D)(1) of this rule.
  3. Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, shall not exceed 10 percent of the total camper nights offered by the youth camp.
  4. The provisions of Section 420.07(A)(1).
  5. A campground as described in Section 410.04(H)(2) and Section 420.04(G)(4) shall not be established in conjunction with a youth camp.
  6. A youth camp shall not be allowed in conjunction with an existing golf course.
  7. A youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.
- E. The youth camp shall be located on a lawful parcel that is:
1. Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities. A youth camp shall be located on a parcel of at least 80 acres.
  2. Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers shall consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property shall be 250 feet unless the governing body, or its designate sets a different setback based upon the following criteria that may be applied on a case-by-case basis:
    - a. The proposed setback will prevent conflicts with commercial resource management practices;
    - b. The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and
    - c. The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.
  3. Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the governing body

or its designate shall verify that a proposed youth camp will not result in the need for a sewer system.

4. Predominantly forestland if within a mixed agricultural/forest zone as provided for under Section 420.09.

F. A youth camp may provide for the following facilities:

1. Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses shall not be allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.
2. Primary cooking and eating facilities shall be included in a single building. Except in sleeping quarters, the governing body, or its designate, may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services shall be limited to the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.
3. Bathing and laundry facilities, except that they shall not be provided in the same building as sleeping quarters.
4. Up to three camp activity buildings, not including primary cooking and eating facilities.
5. Sleeping quarters including cabins, tents or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, shall not include kitchen facilities. Sleeping quarters shall be provided only for youth camp participants and shall not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.
6. Covered areas that are not fully enclosed.
7. Administrative, maintenance and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.
8. An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).
9. A caretaker's residence may be established in conjunction with a youth camp prior to or after June 14, 2000, if no other dwelling exists on the subject property.

G. A proposed youth camp shall comply with the following fire safety requirements:

1. The fire siting standards in Section 420.06(A)(4);
2. A fire safety protection plan shall be developed for each youth camp that includes the following:

- a. Fire prevention measures;
  - b. On site pre-suppression and suppression measures; and
  - c. The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.
3. Except as determined under subsection (G)(4) of this rule, a youth camp's on-site fire suppression capability shall at least include:
    - a. A 1000-gallon mobile water supply that can access all areas of the camp;
    - b. A 30 gallon-per-minute water pump and an adequate amount of hose and nozzles;
    - c. A sufficient number of firefighting hand tools; and
    - d. Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.
  4. An equivalent level of fire suppression facilities may be determined by the governing body, or its designate. The equivalent capability shall be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is within an area protected by ODF and not served by a local structural fire protection provider.
  5. The provisions of Section 420.08(G)(4) may be waived by the governing body, or its designate, if the youth camp is located in an area served by a structural fire protection provider and that provider informs the governing body in writing that on-site fire suppression at the camp is not needed.
- H. The governing body, or its designate, shall require as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, or operator of the youth camp if different from the owner, and the land owner's or operator's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
  - I. Nothing in this rule relieves governing bodies from complying with other requirements contained in the comprehensive plan or implementing land use regulations such as the requirements addressing other resource values (e.g. Goal 5) that exist on forest lands.
  - J. The provisions of this rule shall apply directly to any land use decision pursuant to ORS 197.646 and 215.427(3) commencing October 12, 2000. A county may adopt provisions in its comprehensive plan or land use regulations that establish standards and criteria in addition to those set forth in this rule, or to ensure compliance with any standards or criteria.

**Chapter 430**  
**PRIMARY FOREST ZONE (PF)**

**430.01 Purpose**

**430.02 Applicability**

**430.03 Zoning Upon Private Ownership**

**430.01 Purpose.** The purpose of this Chapter is to describe the applicability of the Primary Forest Zone.

**430.02 Applicability.** The Primary Forest Zone only applies to lands within Baker County that are managed by an agency of the federal government and for which Baker County has assumed no jurisdiction.

**430.03 Zoning Upon Private Ownership.** When and if any of said lands convert to private ownership, the applicable County zoning regulations shall be determined by the size class, vegetative cover, soil classes and other characteristics of said lands.

**Chapter 440**  
**MINERAL EXTRACTION ZONE (ME)**

- 440.01 Purpose**
- 440.02 Permitted Uses**
- 440.03 Uses Permitted Through a Type I Procedure**
- 440.04 Uses Permitted Through a Type II Procedure**
- 440.05 Uses Permitted Through a Type III Procedure**
- 440.06 Minimum Lot Size**

**440.01 Purpose.** The purpose of this Chapter is to describe the permitted uses, conditional uses, and minimum lot size for the ME Zone.

**440.02 Permitted Uses.** In the ME Zone, the following uses and their accessory uses shall be permitted outright:

- A. Mining.
- B. Production, harvesting and processing of forest products.
- C. Local distribution utility facilities as defined in Chapter 150.
- D. Farm use, except feedlots, sales yards, hog farms or dairy herd confinement at any time of the year or other concentration of livestock during May through September within one mile of a residential zone.

**440.03 Uses Permitted Through a Type I Procedure.** In the ME Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.05:

- A. Non-residential structures accessory to mining operations.
- B. Non-residential structures accessory to forest operations.
- D. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
- E. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
- F. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.

**440.04 Uses Permitted Through a Type II Procedure.** In the ME Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06:

- A. Replacement Dwellings.

1. Alteration, restoration, or replacement of a lawfully established dwelling that:
  - a. Has intact exterior walls and roof structure;
  - b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - c. Has interior wiring for lights; and
  - d. Has a heating system.
  - e. In the case of replacement, the dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling.
  - f. The replacement dwelling may be sited on any part of the same lot or parcel.
2. Replacement dwellings applications may be accepted for up to 1 year after the loss of a dwelling due to fire or natural disasters.
  - a. A wind measurement device that is less than 200 feet in height if it is for temporary use for a period not to exceed 48 months.
  - b. Required permanent maintenance/ operations buildings for a wind power facility shall be located off-site in one of Baker County's appropriately zoned areas, except that such a building may be constructed on-site if:
    - i. The building design and construction are generally consistent with the character of similar buildings used by commercial farmers or ranchers, and
    - ii. The building will be removed or converted to farm use upon dismantling of the Wind Power Generation Facility.

**440.05 Uses Permitted Through a Type III Procedure.** In the ME Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210.

- A. Livestock feedlot, sales yard, hog farm or dairy herd confinement at any time of the year or other concentration of livestock during May through September within one mile of a residential zone.
- B. Single-family dwellings when said dwellings are necessary and accessory to mining and limited to one such dwelling per claim or contiguously held group of claims under single ownership, subject to Chapter 210.
- C. Bunkhouses and other housing customarily provided in conjunction with mining, where the housing will be occupied by persons who will be principally engaged in the mining operation and whose assistance in the mining operation is required by the mine operator.
  1. Application for bunkhouses and other housing shall be accompanied by a written statement from the applicant which contains the following information at a minimum:



- a. A description of the mining operation, including but not limited to type of minerals extracted, size of operation, and amount of mineral extracted per year (or projected amount of mineral to be extracted per year).
  - b. The number of existing dwellings used in conjunction with the mining operation.
  - c. The intended location of the bunkhouse or other housing and the nature of the land at this location.
  - d. A general statement concerning the need for the requested bunkhouse or other housing, and reasons why another house located on the claim or group of claims cannot be utilized.
- D. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760
- E. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
- F. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
- G. A wind measurement device that is greater than 200 feet in height.
- H. A wind measurement device that will be used for a period exceeding 48 months.

**440.06 Minimum Lot Size.** In the ME Zone, the minimum lot size shall be the same as the original patent or 20 acres, whichever is smaller except in an area mapped as elk winter habitat, antelope habitat or deer winter habitat, where the minimum parcel size shall be the same as the original patent or 40 acres, whichever is smaller.

**Chapter 450**  
**SURFACE MINING ZONE (SM)**

- 450.01 Purpose**
- 450.02 Applicability**
- 450.03 Uses Permitted Through a Type I Procedure**
- 450.04 Uses Permitted Through a Type II Procedure**
- 450.05 Uses Permitted Through a Type III Procedure**
- 450.06 Minimum Lot Size**
- 450.07 Limitation on Uses**

**450.01 Purpose.** The purpose of this Chapter is to describe the applicability, permitted uses, minimum lot size, and limitations for the SM Zone.

**450.02 Applicability.** The SM Zone applies only to lands within Baker County that have been inventoried as existing gravel resources needing protection from conflicts in residential zones as opposed to other mining operations and gravel recovery operations occurring in more compatible zones. Such sites are inventoried in the Goal V element of the County's Comprehensive Plan.

**450.03 Uses Permitted Through a Type I Procedure.** In the SM Zone, the following uses and their accessory uses shall be permitted outright when authorized in accordance with the provisions of Section 115.05:

- A. Gravel extraction, crushing, screening and storage.
- B. Asphaltic compounding.
- C. Local distribution utility facilities as defined in Chapter 150.
- D. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
- E. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760
- F. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.

**450.04 Uses Permitted Through a Type II Procedure.** In the SM Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06.

- A. Non-residential structures accessory to mining operations.
- B. A wind measurement device that is less than 200 feet in height if it is for temporary use for a period not to exceed 48 months.

- C. Required permanent maintenance/operations buildings for a wind power facility shall be located off-site in one of Baker County's appropriately zoned areas, except that such a building may be constructed on-site if:
  - 1. The building design and construction are generally consistent with the character of similar buildings used by commercial farmers or ranchers, and
  - 2. The building will be removed or converted to farm use upon dismantling of the Wind Power Generation Facility.

**450.05 Uses Permitted Through a Type III Procedure.** In the SM Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210.

- A. Watchman's quarters.
- B. Extraction and processing of metallic resources.
- C. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760
- D. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
- E. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
- F. A wind measurement device that is greater than 200 feet in height.
- G. A wind measurement device that will be used for a period exceeding 48 months.

**450.06 Minimum Lot Size**

- A. Minimum lot size for uses listed in Section 450.03(A) and Section 450.03(B) and Section 450.04(A) shall be a minimum of five acres.
- B. Minimum lot size for uses listed in Section 450.05(A) and Section 450.05(B) shall be determined by the Planning Commission considering DEQ requirements and the area needed to satisfy conditions of Chapter 210.

**450.07 Limitation on Uses**

- A. Notwithstanding any other provision of the Baker County Comprehensive Plan and the Baker County Zoning Ordinance, after January 1, 1994, no new Surface Mining Zones shall be established within a ¼ mile radius of the following:
  - 1. Public or private school.

2. Hospital, rest home or nursing home

- B. After January 1, 1994, if a new quarry site is initiated or expanded on land zoned surface mining, where the site is adjacent to land zoned rural residential, the applicant for the quarry activity shall construct a berm to screen the quarry activity from adjacent residential activities. Owners and operators of existing pits are encouraged to construct berms or plant vegetation to screen the mining activities from adjacent uses.

**Chapter 510**  
**RESIDENTIAL ZONES**

- 510.01 Purpose**
- 510.02 Residential Zones**
- 510.03 Recreation Residential Zone (RR-2)**
- 510.04 Rural Residential Zone (RR-5)**
- 510.05 Livestock Concentration Limitation**
- 510.06 Temporary Hardship Dwelling**

**510.01 Purpose.** The purpose of this Chapter is to establish the uses permitted in residential areas designated in the Comprehensive Plan.

**510.02 Residential Zones.** There are two rural residential zones in Baker County:

- A. Recreation Residential Zone (RR-2)
- B. Rural Residential Zone (RR-5)

**510.03 Recreation Residential Zone (RR-2)**

- A. Uses Permitted Through a Type I Procedure. In the RR-2 Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.05:
- 1. Single-Family Dwellings.
  - 2. Docks and other non-commercial water-based recreational facilities.
  - 3. Farm Use, subject to animal concentration restrictions in Section 510.05.
  - 4. Type I Minor Home Occupations, subject to the provisions of Section 225.02.
  - 5. Local distribution utility facilities, as defined in Chapter 150.
  - 6. Replacement Dwellings: Alteration, restoration or replacement of a lawfully established dwelling. For replacement of a lawfully established dwelling, the dwelling to be replaced shall be removed, demolished, or converted to an allowable non-residential use:
    - a. Within one year after the date the replacement dwelling is certified for occupancy, pursuant to ORS 455.055; or
    - b. If the dwelling to be replaced is, in the discretion of Baker County, in such a state of repair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
    - c. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the Planning Director for the new location.

- d. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.
  7. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
  8. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  9. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  10. Special events permitted through the provisions of Chapter 235 of this ordinance.
- B. Uses Permitted Through a Type II Procedure. In the RR-2 Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06:
1. Public or Private Parks or Playgrounds, including accessory buildings.
  2. Temporary Hardship Dwellings, subject to the provisions of Section 510.06.
  3. Fire Stations.
- C. Uses Permitted Through a Type III Procedure. In the RR-2 Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210.
1. These uses may be authorized as a Conditional Use only after consideration of the following factors:
    - a. Provision of a preliminary plan which is in conformance with Department of Environmental Quality regulations for sub-surface sewage disposal.
    - b. A proposed park shall be in appropriate geographic relationship to the area that it is intended to serve.
    - c. Special consideration shall be given to the screening of light and noise to surrounding property.
    - d. Adequate access from collector or arterial streets shall be provided.
    - e. Special consideration shall be given to the adequacy of public facilities and services, including sanitary dumping stations, sewage disposal facilities, and water supply facilities.
  2. Uses
    - a. Major utility facilities as defined in Chapter 150.

- b. Customary Retail and Service establishments necessary to serve the recreational needs of the area.
- c. Planned Unit Developments, subject to the requirements of Chapter 230, provided that the average lot size for all dwellings is at least two acres.
- d. Mining operations conducted for the exploration and mining of aggregate and other mineral resources or other sub-surface resources subject to the restrictions and permits of the Department of Geology and Minerals Industry (DOGAMI). See Chapter 440, Mineral Extraction Zone when dealing with patented mining claims.
- e. Recreational Vehicle Parks, subject to the provisions of Section 210.04.
- f. Type III Major Home Occupations, subject to the provisions of Section 225.03.
- g. A cabin, provided the following requirements are satisfied:
  - 1. One cabin is permitted per parcel, provided the parcel complies with the minimum parcel size or lot of record requirements of Section 510.03(D).
  - 2. If a water system is provided, the source must be permitted or exempted by the Oregon Water Resources Department.
  - 3. Sanitary services shall be approved by the Oregon Department of Environmental Quality or be an exempt alternative, and shall not create hazards to public health. If onsite sewage or wastewater disposal is necessary, it shall be approved by the Oregon Department of Environmental Quality, comply with OAR 340, Divisions 71 and 73 and shall not create hazards to public health.
  - 4. Appropriate permits and approvals from the Building Department shall be obtained, including those for electrical and heat sources, if provided.
  - 5. Property owners shall prevent snow shed from the roof of the cabin from encroaching onto adjacent properties
  - 6. Overnight use is limited to a total of 180 days per calendar year.
  - 7. Approved access to the structure must be provided.
  - 8. If the cabin is located in a forested area, the applicant must meet the Fire Siting Standards as listed in OAR 660-006-0035:
    - a. To ensure that the risks associated with wildfire are minimized, the dwelling shall be located on a level or near level portion of the parcel
    - b. The dwelling shall have a fire retardant roof
    - c. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester
    - d. The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area

on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "*Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads*" dated March 1, 1991, and published by the Oregon Department of Forestry.

9. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760
10. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
11. Special events permitted through the provisions of Chapter 235 of this ordinance.

D. Minimum Lot Size.

1. The minimum lot size in the RR-2 Zone shall be two acres, subject to the approval of the Department of Environmental Quality (DEQ) regarding sub-surface sewage disposal. Local distribution and major utility facilities are exempt from this requirement.
2. Legal lots of record with less than two acres created prior to October 4<sup>th</sup>, 2000 (date of adoption of OAR 660-004-0040) may develop per the requirements and restrictions of this Section, except that the lots will be non-conforming for size.
3. Legal lots of record with less than two acres created after October 4<sup>th</sup>, 2000 (date of adoption of OAR 660-004-0040) may not be developed under the provisions of this Section.

E. Development Standards. The following standards shall apply to all development in the RR-2 Zone:

1. All structures shall comply with the setback standards in Section 340.02.
2. The highest floor of a permanently or temporarily occupied dwelling shall not exceed 35 feet.
3. The minimum lot width shall be 220 feet.
4. The minimum lot depth shall be 100 feet.
5. Parking spaces shall be in accordance with the provisions of Chapter 330.
6. Each residential dwelling in a forested area shall adhere to the Fire Siting Standards for Structures and Dwellings as listed in OAR 660-006-0035.
7. Signs shall comply with the provisions of Chapter 730.



#### **510.04 Rural Residential Zone (RR-5)**

- A. Uses Permitted Through a Type I Procedure. In the RR-5 Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.05:
1. Single-Family Dwellings.
  2. Farm use, subject to animal concentration restrictions in Section 510.05.
  3. Type I Minor Home Occupations, subject to the provisions of Section 225.02.
  4. Local distribution utility facilities as defined in Chapter 150.
  6. Replacement Dwellings. Alteration, restoration or replacement of a lawfully established dwelling. For replacement of a lawfully established dwelling, the dwelling to be replaced shall be removed, demolished, or converted to an allowable non-residential use:
    - a. Within one year after the date the replacement dwelling is certified for occupancy, pursuant to ORS 455.055; or
    - b. If the dwelling to be replaced is, in the discretion of Baker County, in such a state of repair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
    - c. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the Planning Director for the new location.
    - d. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.
  7. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
  8. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  9. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  10. Special events permitted through the provisions of Chapter 235 of this ordinance.
- B. Uses Permitted Through a Type II Procedure. In the RR-5 Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06:
1. Public or Private Parks or Playgrounds, including accessory buildings.
  2. Temporary Hardship Dwellings, subject to the provisions of Section 510.06.

3. Fire Stations.

C. Uses Permitted Through a Type III Procedure. In the RR-5 Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210:

1. Churches.

2. Public or Private Schools.

3. Governmental or non-profit organizations, structures or uses including community centers and libraries.

4. Medical and dental clinics, hospitals, rest homes, or nursing homes.

5. Major utility facilities, as defined in Chapter 150.

6. Convenience Stores.

7. Recreational Vehicle Parks, subject to the provisions of Section 210.04.

8. Type III Major Home Occupations, subject to the provisions of Section 225.03.

9. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.

10. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.

11. Planned Unit Developments, subject to the requirements of Chapter 230.

12. Special events permitted through the provisions of Chapter 235 of this ordinance.

D. Minimum Lot Size. In the RR-5 Zone, the minimum lot or parcel size shall be five acres, subject to the approval of the Department of Environmental Quality (DEQ) regarding sub-surface sewage disposal. Local distribution and major utility facilities are exempt from this requirement.

1. Legal lots of record with less than two acres created prior to October 4, 2000 (date of adoption of OAR 660-004-0040) may develop per the requirements and restrictions of this Section, except that the lots will be non-conforming for size.

2. Legal lots of record with less than two acres created after October 4, 2000 (date of adoption of OAR 660-004-0040) may not be developed under the provisions of this Section.

E. Development Standards. The following standards shall apply to all development in the RR-5 Zone:

1. All structures shall comply with the setback standards in Section 340.02.

2. The highest floor of a permanently or temporarily occupied dwelling shall not exceed 35 feet.
3. The minimum lot width shall be 220 feet.
4. The minimum lot depth shall be 100 feet.
5. Parking spaces shall be in accordance with the provisions of Chapter 330.
6. Each residential dwelling in a forested area shall adhere to the Fire Siting Standards for Structures and Dwellings as listed in OAR 660-006-0035.
7. Signs shall comply with the provisions of Chapter 730.

F. Surface Mining Buffer Zone.

1. In the RR-5 Zone, residential dwellings shall not be constructed within 100 feet of land zoned Surface Mining (SM).
2. Notwithstanding other provisions of the Baker County Comprehensive Plan and the Baker County Zoning Ordinance, the following uses are not allowed within ¼ mile of an area zoned Surface Mining.
  - a. Public or Private Schools.
  - b. Rest Homes or Nursing Homes.
  - c. Other activities which would be adversely affected by dust or noise originating from surface mining activities.
3. Prior to the issuance of a building permit for a dwelling, the applicant shall plant fast growing vegetation on the property line adjoining land zoned surface mining.
4. Before a permit for development is issued, all proposed developments shall require the property owner(s) to record an Acknowledgement of Adjacent Land Use (AALU) with the Baker County Clerk. This statement shall identify the property and preclude the current and future owner(s) from filing complaints or legal actions against lawful existing or future mining operations on adjacent lands.

G. Sumpter Valley Overlay Zone

1. Lands in the Sumpter Valley Overlay Zone shall be administered in accordance with the RR-5 Zone, with the added feature of being able to conduct mining on all previously mined lands, subject to the Type I Procedure provisions of Section 115.06.
2. Before a permit for development is issued, all proposed developments shall require the property owner(s) to record an Acknowledgement of Adjacent Land Use (AALU) with the Baker County Clerk. This statement shall identify the property and preclude the current and future owner(s) from filing complaints or legal actions against lawful existing or future mining operations on adjacent lands.

**510.05 Livestock Concentration Limitation.** The keeping of livestock as an incidental use, i.e., as a use other than the primary use designated for the lot or property, shall be subject to the following limitations.

- A. The total number of all such animals allowed on a lot or parcel, other than their young under the age of six months, shall be limited to the following amounts. One acre may accommodate only one of the following uses:
  - 1. Horses: one per acre.
  - 2. Cows: one per acre.
  - 3. Goats and sheep: five per acre.
  - 4. Chickens, fowl, and/or rabbits: no more than 50 mature animals per one acre. Animals shall be confined on not more than 25% of the total lot area.
  - 5. Pigs: two per acre.
- B. Animal runs or barns, and chicken or fowl pens shall be located on the rear half of the property, not closer than 75 feet from the front property line or closer than 50 feet from any residence. See also Chapter 340.
- C. Animals, chicken and/or fowl shall be properly caged or housed. Proper sanitation shall be maintained at all times. All animal or poultry food except hay and similar bulky materials shall be stored in metal or other rodent-proof receptacles.
- D. No provision of this Section shall be construed to condone, permit or allow the keeping, breeding, raising, or other disposition of any animal or fowl of any kind in a manner contrary to State or federal regulations.

### **510.06 Temporary Hardship Dwelling**

- A. Temporary Hardship Dwelling or temporary manufactured home placements.
  - 1. A manufactured dwelling, recreational vehicle (RV), or the temporary use of a dwelling may be allowed for the term of the hardship suffered by the existing resident or relative as defined in ORS 215, subject to the following:
  - 2. The manufactured dwelling shall use the same sub-surface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required.
  - 3. Permits shall be reviewed every year.
  - 4. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed non-residential use.

5. A temporary residence approved under this Section is not eligible for replacement.
6. As used in this Section, "*hardship*" means a medical hardship or hardship for the care of an aged or infirm relative as defined in ORS 215.

**Chapter 520**  
**COMMERCIAL ZONES**

- 520.01 Purpose**
- 520.02 Commercial Zones**
- 520.03 General Commercial Zone (GC)**
- 520.04 Tourist Commercial Zone (TC)**
- 520.05 Commercial Industrial Zone (CI)**

**520.01 Purpose.** The purpose of this Chapter is to establish the uses permitted in commercial areas designated in the Comprehensive Plan.

**520.02 Commercial Zones.** There are three commercial zones in the County applicable to areas outside Unincorporated Communities:

- A. General Commercial Zone (GC)
- B. Tourist Commercial Zone (TC)
- C. Commercial Industrial Zone (CI)

**520.03 General Commercial Zone (GC)**

- A. Uses Permitted Through a Type I Procedure. In the GC Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.05:
  - 1. Retail Sales and Service establishments necessary for public service.
  - 2. Commercial Dwellings.
  - 3. Farm Use, subject to livestock concentration limitations found in Section 510.05.
  - 4. Local distribution utility facilities as defined in Chapter 150.
  - 5. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
  - 6. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - 7. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - 8. Special events permitted through the provisions of Chapter 235 of this ordinance.

B. Uses Permitted Through a Type II Procedure. In the GC Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06:

1. Public or Private Parks or Playgrounds, including accessory buildings.
2. Alteration, restoration, or replacement of a lawfully established dwelling that:
  - a. Has intact exterior walls and roof structure;
  - b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - c. Has interior wiring for lights; and
  - d. Has a heating system.
  - e. In the case of replacement, the dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling.
  - f. The replacement dwelling may be sited on any part of the same lot or parcel.
  - g. Replacement dwellings applications may be accepted for up to 1 year after the loss of a dwelling due to fire or natural disasters.

C. Uses Permitted Through a Type III Procedure. In the GC Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210:

1. Truck Terminals.
2. Watchman's Quarters.
3. Major utility facilities as defined in Chapter 150.
4. Travel Trailer Parks; RV spaces.
5. Public Buildings.
6. Pharmacies and medical distribution facilities.
7. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760
8. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
9. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.

10. Planned Unit Developments, subject to the requirements of Chapter 230, provided that the average lot size for all dwellings is at least two acres.

11. Special events permitted through the provisions of Chapter 235 of this ordinance.

D. Limitations on Uses. In the GC Zone, a development proposal (plan) which proposes the use for the property shall be submitted to the Planning Department. The development plan process shall be utilized to determine the lot size necessary to accommodate the proposed use. Particular attention shall be given to providing septic service, parking and access. Land in the GC Zone shall not be divided or developed without an approved development proposal.

#### **520.04 Tourist Commercial Zone (TC)**

A. Uses Permitted Through a Type I Procedure. In the TC Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.05:

1. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
2. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
3. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
4. Special events permitted through the provisions of Chapter 235 of this ordinance.

B. Uses Permitted Through a Type II Procedure. In the TC Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.06:

1. Bus Terminals.
2. Eating and/or Drinking Establishments.
3. Retail Sales and Service Establishments.
4. Churches.
5. Public or Private Parks or Playgrounds, including accessory buildings.
6. Public Buildings or Uses.
7. Commercial Dwellings.
8. Service Stations.
9. Travel Trailer Parks and RV parks.



10. Truck Stops.

11. Farm Use, except for feedlots or sales yards, subject to animal concentration restrictions in Section 510.05.

12. Any business or activity of such nature and location that is primarily to provide service, lodging, or products to non-resident travelers on freeways or highways, and which business or activity cannot economically exist or operate without serving that class of persons.

13. Alteration, restoration, or replacement of a lawfully established dwelling that:

- a. Has intact exterior walls and roof structure;
- b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- c. Has interior wiring for lights; and
- d. Has a heating system.
- e. In the case of replacement, the dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling.
- f. The replacement dwelling may be sited on any part of the same lot or parcel.
- g. Replacement dwellings applications may be accepted for up to 1 year after the loss of a dwelling due to fire or natural disasters.

C. Uses Permitted Through a Type III Procedure. In the TC Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210:

1. Single-Family Dwellings in conjunction with a permitted use.
2. Multi-Family Dwellings.
3. Type III Major Home Occupations, subject to the provisions of Section 225.04.
4. Local distribution facilities as defined in Chapter 150.
5. Public Buildings.
6. Pharmacies and medical distribution facilities.
7. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760

8. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
9. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
10. Planned Unit Developments, subject to the requirements of Chapter 230, provided that the average lot size for all dwellings is at least two acres.
11. Special events permitted through the provisions of Chapter 235 of this ordinance.

- D. Limitations on Uses. In the TC Zone, a development plan which proposes the use for the property shall be submitted to the Planning Department. The development plan process shall be utilized to determine the lot size necessary to accommodate the proposed use. Particular attention shall be given to providing septic service, parking, and access. Land in the TC Zone shall not be divided or developed without an approved development proposal.
- E. Minimum lot size for residential uses. The minimum lot size for single-family dwellings shall be two acres, subject to the approval of the Department of Environmental Quality regarding sub-surface sewage disposal.

#### **520.05 Commercial Industrial Zone (CI)**

- A. Uses Permitted Through a Type I Procedure. In the CI Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.05:
1. Farm Use, subject to livestock concentration limitations found in Section 510.05.
  2. Type I Minor Home Occupations, subject to the provisions of Section 225.02.
  3. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
  4. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  5. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  6. Special events permitted through the provisions of Chapter 235 of this ordinance.
- B. Uses Permitted Through a Type II Procedure. In the CI Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.06:
1. Public or Private Schools.
  2. Local distribution utility facilities as defined in Chapter 150.

3. Public or Private Parks or Playgrounds or community centers.
4. Alteration, restoration, or replacement of a lawfully established dwelling that:
  - a. Has intact exterior walls and roof structure;
  - b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - c. Has interior wiring for lights; and
  - d. Has a heating system.
  - e. In the case of replacement, the dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling.
  - f. The replacement dwelling may be sited on any part of the same lot or parcel.
  - g. Replacement dwellings applications may be accepted for up to 1 year after the loss of a dwelling due to fire or natural disasters.

C. Uses Permitted Through a Type III Procedure. In the CI Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210:

1. Single-Family Dwellings in conjunction with a permitted use.
2. Churches.
3. Retail Sales and Service Establishments necessary for public service.
4. Multi-Family Dwellings.
5. Commercial Dwellings.
6. Travel Trailer Parks/RV parks.
7. Truck Terminals.
8. Manufactured Home Parks.
9. Type III Major Home Occupations, subject to the provisions of Section 225.04.
10. Major utility facilities as defined in Chapter 150.
11. Manufacturing, compounding, fabricating, processing, repairing, packaging or storage. Such uses must conduct all operations and store materials entirely within enclosed buildings with the exception of parking and loading activities. Operations must be free of objectionable odor, noise, smoke, dust, glare, heat or other adverse effects on neighboring properties.

12. Wrecking Yards.
  13. Public Buildings.
  14. Pharmacies and medical distribution facilities.
  15. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760
  16. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  17. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
  18. Planned Unit Developments, subject to the requirements of Chapter 230, provided that the average lot size for all dwellings is at least two acres.
  19. Special events permitted through the provisions of Chapter 235 of this ordinance.
- D. Limitations on Uses. In the CI Zone, a development proposal (plan) which proposes the use for the property shall be submitted to the Planning Department. The development plan process shall be utilized to determine the lot size necessary to accommodate the proposed use. Particular attention shall be given to providing septic service, parking and access. Land in the CI Zone shall not be divided or developed without an approved development proposal.
- E. Minimum lot size for residential uses. The minimum lot size for single-family dwellings shall be two acres, subject to the approval of the Department of Environmental Quality regarding sub-surface sewage disposal.

**Chapter 530**  
**INDUSTRIAL ZONES**

- 530.01 Purpose**
- 530.02 Industrial Zones**
- 530.03 Industrial Zone (I)**

**530.01 Purpose.** The purpose of this Chapter is to establish the uses permitted in Industrial areas designated in the Comprehensive Plan.

**530.02 Industrial Zones.** There is one Industrial Zone in Baker County applicable to areas outside incorporated communities:

A. Industrial Zone (I)

**530.03 Industrial Zone (I)**

- A. Uses Permitted Through a Type I Procedure. In the Industrial Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.05:
1. Farm Use, subject to livestock concentration limitations found in Section 510.05.
  2. Manufacturing, compounding, fabricating, processing, repairing, packaging, storage and warehousing.
  3. Farm, truck and heavy equipment sales and service.
  4. Truck Terminals.
  5. Welding and Machine Shops.
  6. Major utility facilities and local distribution utility facilities as defined in Chapter 150.
  7. Metallic and non-metallic mineral recovery, processing and storage.
  8. Storage and processing of agricultural products.
  9. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the sub-surface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
  10. Alteration, restoration, or replacement of a lawfully established dwelling that:
    - a. Has intact exterior walls and roof structure;
    - b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

- c. Has interior wiring for lights; and
- d. Has a heating system.
- e. In the case of replacement, the dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling.
- f. The replacement dwelling may be sited on any part of the same lot or parcel.
- g. Replacement dwellings applications may be accepted for up to 1 years after the loss of a dwelling due to fire or natural disasters.

11. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.

12. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.

13. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.

14. Special events permitted through the provisions of Chapter 235 of this ordinance.

B. Uses Permitted Through a Type II Procedure. In the Industrial Zone the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.06:

1. A Small-Scale Wind Power Generation Facility, subject to the provisions of Chapter 750.

C. Uses Permitted Through a Type III Procedure. In the Industrial Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit, as described in Chapter 210, and are subject to the requirements of Section 530.03(D) and Section 530.03(E).

1. Watchman's quarters.

2. Any process, storage or manufacturing which emits odors, fumes, gases or treated liquids.

3. Wrecking/Junk Yard.

4. Livestock feedlots and sales yards.

5. Temporary housing in conjunction with industrial use.

6. A wind measurement device.

7. Public Buildings.

8. A Commercial Wind Power Generation Facility, subject to the provisions of Chapter 750.
  9. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760
  10. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  11. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
  12. Planned Unit Developments, subject to the requirements of Chapter 230, provided that the average lot size for all dwellings is at least two acres.
  13. Special events permitted through the provisions of Chapter 235 of this ordinance.
- D. Criteria for Conditional Uses. In addition to the requirements of Chapter 210, those Conditional Uses listed in Section 530.03(B) shall meet the following criteria, if applicable.
1. State and federal agencies concerned with the emissions which are proposed shall be notified of the proposal and shall participate in the review process if they choose.
  2. The proposed use shall control emissions to the extent that adjacent property is not substantially inhibited from being utilized for its designated purpose.
- E. Limitations on Uses. In addition to the criteria listed in Section 530.03(C), the uses of this Section shall be subject to a development proposal. A plan which proposes the use for the property shall be submitted to the Planning Department. The development proposal (plan) process shall be utilized to determine the lot size necessary to accommodate the proposed use. Particular attention shall be given to providing septic service, parking, and access. Land in the Industrial Zone shall not be divided or developed without an approved development proposal. Because of the significance of mineral and aggregate resources found at the two Oregon Portland Cement sites and the Northeast Baker-Frontage Road site, respectively, any industrial development within these sites shall not jeopardize the removal and processing of the resource (see Policy 30, page V-82, of the Comprehensive Plan).

**Chapter 540**  
**SPECIAL ZONING DISTRICTS**

- 540.01 Airport Development Zone (AD)**
- 540.02 Sumpter Valley Management Area Zone (SVMA)**
- 540.03 Sumpter Valley Management Area Buffer Zone (Buffer Zone)**
- 540.04 Motor Sports Limited Use Combining Zone (MSLUC)**
- 540.05 Old Mill Limited Use Combining Zone (OMLUC)**

**540.01 Airport Development (AD) Zone**

- A. Purpose. The purpose of the Airport Development Zone (AD) is to allow continued development of the airport and associated uses.
- B. Uses Permitted Through a Type I Procedure. In the AD Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.05:
  - 1. Flight and flying services, passenger services, surveying and engineering.
  - 2. Aviation fuel sales, air frame and engine repair and maintenance.
  - 3. Hangars and warehouses.
  - 4. Farming, except for feedlots and those agricultural uses that foster an increase of wildfowl.
  - 5. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
  - 6. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - 7. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - 8. Local distribution utility facilities as defined in Chapter 150.
  - 9. Special events permitted through the provisions of Chapter 235 of this ordinance.
- C. Uses Permitted Through a Type III Procedure. In the AD Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210:
  - 1. Retail sales of aircraft and related equipment, agricultural, irrigation, and chemicals.
  - 2. Motel/Restaurant, gasoline sales, convenience sales.
  - 3. Parking lots, residences for security, fire crew and night service.



4. Manufacturing, compounding, fabricating, processing, repairing, packing or storing. Such use must conduct all operations and store materials entirely within enclosed buildings with the exception of parking and loading activities. Operations must be free of objectionable odor, noise, smoke, dust, glare, heat or other adverse effects on neighboring property.
  5. Public buildings.
  6. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  7. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  8. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
  9. Special events permitted through the provisions of Chapter 235 of this ordinance.
- D. Limitations on Uses. All uses listed in Sections 540.03(A), Section 540.03(B) or Section 540.03(C) are subject to the provisions of the County's Airport Ordinance, adopted July 29, 1975, as amended, of this Ordinance. All uses occurring upon land owned by the City of Baker may also be subject to city regulation.

## 540.02 Sumpter Valley Management Area (SVMA) Zone

- A. Purpose. The purpose of the Sumpter Valley Management Area (SVMA) Zone is to provide for the public health, safety and general welfare, and to protect the mineral, aggregate and wildlife habitat values of the dredged area by implementing the Sumpter Valley Dredge Tailing Management Plan.
- B. Other regulations not circumvented. A use or action allowed by this Ordinance, or permit issued, pursuant hereto, may not be construed to circumvent or supersede other State or Federal regulations applicable to the land area involved, which includes the following land areas:
1. **Buffer zone:** refers to the area of land in the county adjoining the geographic area and bounded as follows:
    - a. North boundary: Sumpter Valley Highway (Hwy. 7);
    - b. West boundary: Sumpter Valley Highway (Hwy 7).
    - c. East boundary: Clear Creek Road (Hudspeth Lane);
 South boundary: Huckleberry Loop where such road exists; otherwise, a distance of 1000 feet south of the South Dredge Line.
  2. **Geographic area:** refers to the area of land in the County bounded as follows:
    - a. West boundary: Highway 7 (Whitney-Tipton) in Sections 3 and 10, Township 10 South, Range 37 East, W.M., Baker County, Oregon;
    - b. East boundary: Clear Creek Road (Hudspeth Lane) along the common section line of Sections 17 and 18, Township 10 South, Range 38 East, W.M., Baker County, Oregon;

- c. North boundary: The North Dredge Line;  
South boundary: The South Dredge Line.

C. Uses Permitted Through a Type I Procedure. In the SVMA Zone, the following uses and their accessory uses may be permitted in the Geographic Area when authorized in accordance with the provisions of Section 115.05:

1. Wildlife management according to Section 540.04(E)(1).
2. Recreational development according to Section 540.04(E)(2).
3. Livestock grazing.
4. Local distribution utility facilities. Towers 200' or higher must be reviewed as a Conditional Use.
5. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
6. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
7. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
8. Special events permitted through the provisions of Chapter 235 of this ordinance.
9. When in conjunction with or ancillary to the Sumpter Valley Railroad Restoration, Inc., the following developments and uses may be permitted in order to establish and maintain a heritage railroad:
  - a. A depot
  - b. A museum
  - c. An archives building
  - d. Educational exhibits
  - e. Buildings, facilities and activities necessary for the conservation, maintenance and restoration of historic railroad locomotives and rolling stock
  - f. Ancillary facilities and storage of railroad-related items typical of a railyard
  - g. Use of the existing road bed and right-of-way for the Sumpter Valley Railroad, throughout its course in the Geographic Area, for trackage necessary to support the operation of a heritage railroad.
  - h. Crew facilities and recreational vehicle parking, strictly limited to temporary use by volunteers while employed at the railroad.

D. Uses Permitted Through a Type II Procedure. In the SVMA Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06:

1. Wildlife Management – Geographic Area: *\*\*\*This Section, as described below, does not currently apply as there is not an active license between the Oregon Department of Fish and Wildlife and Baker County. If, in the future, a license agreement is instated, this Section may be amended.*
  - a. The State Department of Fish and Wildlife, in accordance with its license with the Baker County Board of Commissioners, shall have authority to take those actions and do those things reasonably necessary to establish, maintain, and perpetuate the various kinds of wildlife associated with the Geographic Area or that may be introduced by such Department into the area.
  - b. Such Department shall have authority to cause one or more of the Tailing Ponds to be deepened to an extent calculated to provide an adequate depth of water for fish survival: provided, however, that one or more of such ponds deepened shall have structures designed to accommodate the elderly or physically handicapped person as to access for fishing therein.
  - c. Such Department shall have authority to establish those structures, or make those fills, designed to stabilize the depth of water in those Tailing Ponds intended to be stocked and maintained with fish or other forms of aquatic wildlife.
  - d. In order to reduce or alleviate the conflicts between the wildlife management of lands and the mineral resource management of lands in the Geographic Area, such Department shall give due consideration to those land areas designated for mineral removal; such consideration shall include the utilization of setback distances from mineral resource areas.
  - e. Nothing in this Section may be construed to deny vehicular access to the Powder River Gauging Station, which access is reasonably required for inspection and maintenance of such Station.
2. Recreational Development – Geographic Area:
  - a. The Baker County Board of Commissioners shall have authority to establish and maintain a County Park and automobile parking areas in the Geographic Area as follows:
    - i. County Park and parking area. On the west side of the Huckleberry Loop within the boundaries of a triangle of land described by commencing at the intersection of the Huckleberry Loop and the Sumpter Valley Railroad Bed; thence northwesterly along said railroad bed a distance of 1360 feet; thence southerly to the intersection of the Powder River; thence southeasterly along the river to the Huckleberry Loop; thence northerly along said road to the point of beginning;
    - ii. Other parking area. On the east side of the Huckleberry Loop, within 300 feet of the center line thereof between the Powder River and Highway 7; and on the east side of the Whitney-Tipton Highway, within 300 feet of the center line thereof, between the Powder River and the Sumpter Valley Railroad Bed.
  - b. Should the Baker County Board of Commissioners elect to construct pedestrian trails in the Geographic Area, the following factors will be considered:

- i. The State Department of Fish and Wildlife may be consulted regarding the location of such trails.
  - ii. One or more of such trails shall be designed to accommodate the elderly or the physically handicapped person.
- E. Uses Permitted Through a Type III Procedure. In the SVMA Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210:
  1. When in conjunction with or ancillary to the Sumpter Valley Railroad Restoration, Inc., the following developments and uses may be permitted in order to establish and maintain a heritage railroad:
    - a. Retail sales limited to customers of the railroad.
    - b. Administrative offices and research facilities necessary for the operation of the Sumpter Valley Railroad, Inc.
  2. Mining. Mining operations may be allowed, providing that such operations conform to the standards and criteria of this Section and providing further that such operations shall be subject to a zoning permit in writing issued by the Baker County Planning Commission:
    - a. Location. Mining operations may be allowed on in the following locations within the Geographic Area:
      - i. On County-owned land.
      - ii. On State-owned land in the E $\frac{1}{2}$  , NE $\frac{1}{4}$  , SE $\frac{1}{4}$  of Section 18, Township 10 South, Range 38 East, W.M., Baker County, Oregon.
      - iii. On privately-owned land.
    - b. Operating Requirements. All mining operations allowed by this Section shall be conducted and reclaimed in a manner which:
      - i. maintains a setback distance of no less than 20 feet from any portion of the banks of the Powder River.
      - ii. maintains a setback distance of no less than 34 feet from the center line of the Sumpter Valley Railway Bed.
      - iii. leaves no cutbanks with slopes greater than a ratio of three feet horizontal distance to one-foot vertical distance (3:1).
      - iv. protects the naturally growing, riparian vegetation along the banks of the Powder River and around the Tailing Ponds.
      - v. prevents adverse siltation or other pollution or filling of the Powder River or Tailing Ponds or adverse pollution of the ground water.
    - c. Baker County-Owned Property. In addition to the operating standards listed in subsection (b) above, all mining on Baker County-owned property shall maintain a setback distance of no less

than 300 feet from the center line of the Sumpter Valley Railway Bed on Baker County-owned property.

- d. Additional Permits. Mining Operations permitted according to this Section may also be subject to a permit, pursuant to the State Surface Mining Laws.
3. Major utility facilities.
4. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
5. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
6. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
7. Special events permitted through the provisions of Chapter 235 of this ordinance.

#### **540.03 Sumpter Valley Management Area Buffer Zone (Buffer Zone)**

- A. Purpose. The purpose of the Sumpter Valley Management Area Buffer Zone (SVMA Buffer Zone) is to provide a transitional area from the Sumpter Valley Management Area (SVMA) to adjoining lands. The SVMA Buffer Zone refers to the area of land in the County adjoining the SVMA zone, as shown on the Zoning Map.
- B. Uses Permitted Through a Type I Procedure. In the SVMA Buffer Zone, the following uses are allowed outright:
  1. Farm use.
  2. Propagation and harvesting of forest products.
  3. Location distribution utility facilities.
  4. Outbuildings customarily used in conjunction with farm use.
  5. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
  6. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  7. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  8. Special events permitted through the provisions of Chapter 235 of this ordinance.

C. Uses Permitted Through a Type III Procedure. In the SVMA Buffer Zone, the following uses may be allowed, providing such uses conform to the applicable standards and criteria of this Section and providing that such uses shall be subject to a permit in writing issued by the Baker County Planning Commission. These uses shall require a Conditional Use Permit as described in Chapter 210:

1. Single-family dwellings accessory to and necessary for farm use.
2. Single-family dwellings not in conjunction with farm use, subject to criteria of ORS 215.284.
3. Home occupations.
4. Major utility facilities.
5. Exploration for mineral and aggregate resources.
6. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
7. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
8. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
9. Special events permitted through the provisions of Chapter 235 of this ordinance.

D. Standards and Criteria. These standards and criteria shall apply to all developments within the SVMA Buffer Zone:

1. The dwellings and accessory buildings allowed by this Section shall be located upon naturally elevated or terraced land above the meadowland, grasslands and wetlands and shall not be located upon land that has been dredge mined.
2. The standards for minimum ownerships, dimensional standards and setbacks from property lines in the SVMA Buffer Zone shall be no less than those of the Exclusive Farm Use (EFU) Zone as determined by the applicable provisions of the Baker County Zoning Ordinance 2014-1, as amended or revised.
3. Dwellings and other buildings requiring a sewage disposal system shall be located on land approved by the Department of Environmental Quality.

E. Non-conforming Use.

1. A legal use of land or a building or other structure, existing prior to the effective date of this Ordinance, that does not conform to the provisions of this Ordinance, may be continued, but such use shall not be expanded or otherwise made further non-conforming.

2. A new use replacing a non-conforming use shall conform to the provisions of Sections 540.04 and 540.05.

F. Variances.

1. The Baker County Planning Commission shall have authority to grant a Variance permit, in accordance with Chapter 240, from the provisions of Sections 540.04 and 540.05 where it can be shown that owing to a special and unusual circumstance relating to a particular lot or parcel of land, or to a particular building or other structure, the literal interpretation of this Ordinance would cause an undue or unnecessary hardship.
2. No Variance permit shall be granted unless it can be shown that all of the following circumstances exist:
  - a. The Variance is necessary for the preservation of a property right of an applicant substantially the same as owners of other property in the same vicinity.
  - b. The granting of the Variance will not be materially detrimental to any purpose of this Ordinance nor be injurious to other property in the same vicinity.
  - c. The Variance requested is the minimum Variance which will alleviate the hardship.
3. A Variance permit issued according to this Section shall apply to and run with the land involved provided, however, that the Baker County Planning Commission shall have authority to set reasonable time limits during which time the use of land or the use of a building or other structure shall be commenced and diligently pursued.
4. A use not established in accordance with the provisions of Section 540.05(G)(3) shall be subject to a review and reconsideration by the Baker County Planning Commission. The reconsideration, depending upon changing conditions and circumstances, may include a revocation of a permit formerly authorized.
5. An application for a Variance permit shall be made to the Planning Director on forms provided for that purpose, along with an administrative fee as established by the Baker County Board of Commissioners. The Baker County Board of Commissioners, by order thereof, shall have authority to adjust the fee in (5) of this Section, from time to time, as it deems necessary.
6. All applications for a Variance shall be published in a newspaper of general circulation in the County at least one time no later than 14 days prior to the date set for the public hearing upon the application. In addition, all land owners of record owning land within 250 feet of the land involved in a Variance application shall receive individual notice by mail of the date, time and place of the hearing.
7. The Baker County Board of Commissioners, by order thereof, shall have authority to adjust the fee in 540.05(G)(5), from time to time, as it deems necessary
8. This Section may be reviewed and revised periodically, as necessary, provided that any revision of this Ordinance and zoning map shall not be in conflict with any provision of the Dredge Tailing Plan. "*Revision*" includes any amendment.

#### **540.04 Motor Sports Limited Use Combining Zone (MSLUC)**

- A. Purpose. The purpose of the Motor Sports Limited Use Combining (MSLUC) Zone is to allow motor sports and associated uses in combination with permitted uses and conditional uses allowed in the underlying EFU Zone.
- B. Uses Permitted Through a Type I Procedure. In the MSLUC Zone, uses permitted in the EFU Zone under Section 410.02 shall be permitted outright when authorized in accordance with the provisions of Section 115.05.
- C. Uses Permitted Through a Type II Procedure. In the MSLUC Zone, uses permitted in the EFU Zone under Section 410.03 may be permitted when authorized in accordance with the provisions of Section 115.06.
- D. Uses Permitted Through a Type III Procedure. In the MSLUC Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210:
1. Motor sports events including:
    - a. Cars and trucks.
    - b. Snowmobiles.
    - c. Motorcycles and four wheelers.
    - d. Model airplanes.
  2. Accessory uses including, but not limited to:
    - a. Concession stands.
    - b. Parking areas to include participant overnight self-contained camping.
    - c. Watchman's quarters (maximum one residence).
    - d. Restrooms.
    - e. First aid facilities.
    - f. Maintenance and repair facilities.
    - g. Spectator areas.
    - h. Participant fueling facilities.
    - i. Training clinics and schooling shows.
    - j. On-premise advertising sign.
  3. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  4. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  5. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
- E. Minimum Parcel Sizes. New parcels in the MSLUC Zone shall comply with the following minimum parcel size requirements:



1. 80 acres for motor sports events.
  2. All other uses shall comply with Section 410.05.
- F. Site Plan Requirements. A request for motor sports events shall be accompanied by a site plan identifying property boundaries and any site improvements such as, but not limited to, access, parking areas, buildings, impervious surfaces, landscaping drainage, signs and dust control.
- G. Property Development Standards. In the MSLUC Zone, the following standards shall apply:
1. All lighting shall be shielded and directed away for public roadways.
  2. A drainage plan shall include provisions for no increased impacts to adjacent property from development.
  3. All setback and frontage requirements in Chapter 340 must be complied with.
  4. Dust control must be provided for, and must be addresses by the site plan.

#### **540.05 Old Mill Limited Use Combining Zone (OMLUC)**

- A. Northern Portion of Tax Lot 200 of Map No. 08s46e21a – (±10.52 acres), depicted in Map 1 of this Section.
1. Uses Permitted Through a Type I Procedure:
    - a. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
    - b. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
    - c. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
    - d. Local distribution utility facilities.
    - e. Special events permitted through the provisions of Chapter 235 of this ordinance.
  2. Uses Permitted Through a Type II Procedure. The following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.06.
    - a. Single-Family Dwellings. No more than two dwellings on northern portion (±10.52 acres).
    - b. Farm uses, except for feedlots and sales yards, subject to livestock concentration limitations found Section 510.05.
    - c. Home Occupations.

3. Uses Permitted Through a Type III Procedure. The following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210.

- a. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760
- b. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
- c. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
- d. Special events permitted through the provisions of Chapter 235 of this ordinance.

B. Southern Portion of Tax Lot 200 of Map No. 08s46e21a ( $\pm 18.04$  acres), depicted in Map 1 of this Section.

1. Uses Permitted Through a Type I Procedure:

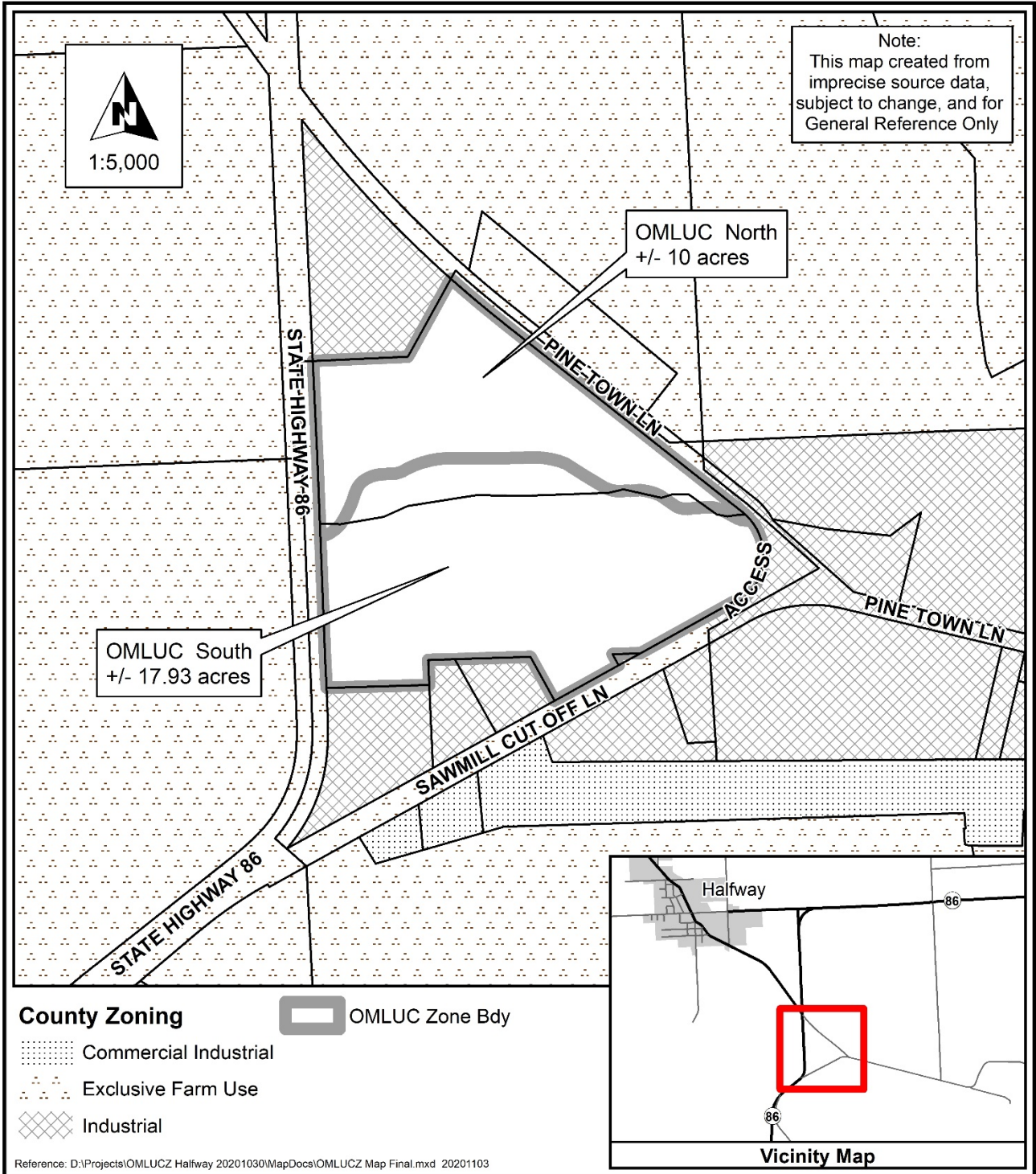
- a. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
- b. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
- c. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
- d. Local distribution utility facilities.
- e. Special events permitted through the provisions of Chapter 235 of this ordinance.

2. Uses Permitted Through a Type II Procedure. The following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.06.

- a. Service Stations
- b. Welding or Machine Shops
- c. Storage and Processing of Agricultural Products
- d. Watchman's Quarters
- e. Quarters/Temporary Housing in Conjunction with Industrial Use

- f. Public Use Buildings or use
  - g. Convenience Stores
  - h. Public or Private Parks or Playgrounds
  - i. Manufacturing, compounding, fabricating, processing, repairing, and packaging.
  - j. Processing, manufacturing, sorting, storing and warehousing of wood products.
3. Uses Permitted Through a Type III Procedure. The following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210.
- a. Any processing, storing or manufacturing which emits odors, fumes, gases or treated water, including the storage of hazardous materials.
  - b. Commercial dwellings
  - c. Travel Trailer Parks and RV Parks
  - d. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - e. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - f. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
  - g. Special events permitted through the provisions of Chapter 235 of this ordinance.

# Map 1: OMLUC Zone



**Chapter 550**  
**ZONES FOR UNINCORPORATED COMMUNITIES**

- 550.01 Purpose**
- 550.02 Zones for Unincorporated Communities**
- 550.03 Rural Service Area Zone (RSA)**
- 550.04 Rural Commercial Zone (RC)**
- 550.05 Rural Industrial Zone (RI)**

**550.01 Purpose.** The purpose of this Chapter is to establish the uses permitted in Baker County's Unincorporated Communities.

**550.02 Zones for Unincorporated Communities.** There are three zones in the County applicable to Unincorporated Communities:

- A. Rural Service Area Zone (RSA)
- B. Rural Commercial Zone (RC)
- C. Rural Industrial Zone (RI)

**550.03 Rural Service Area Zone (RSA)**

- A. Uses Permitted Through a Type I Procedure. In a RSA Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.05:
  - 1. Single-family residential dwellings.
  - 2. Local distribution utility facilities as described in Chapter 150.
  - 3. Type I Minor Home Occupations, subject to the provisions of Section 225.02.
  - 4. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
  - 5. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - 6. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - 7. Special events permitted through the provisions of Chapter 235 of this ordinance.
- B. Uses Permitted Through a Type II Procedure. In a RSA Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06:
  - 1. Temporary Medical Hardship Dwellings subject to the provisions of Section 510.06.

2. Commercial use limited to 4,000 square feet of floor area.
  3. New motels and hotels up to 35 units, only if served by an existing community sewer system (new hotels and motels are not allowed outside an Unincorporated Community).
  4. Industrial use involving the primary processing of raw material(s) produced in the area.
  5. Industrial use limited to 10,000 square feet of floor area.
  6. Museums directly associated with a historical event or site located in or near the community.
- C. Uses Permitted Through a Type III Procedure. In a RSA Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall require a Conditional Use Permit as described in Chapter 210 and shall be subject to the provisions of this Section:
1. Type III Major Home Occupations, subject to the provisions of Section 225.04.
  2. Major utility facilities, as defined in Chapter 150.
  3. Churches.
  4. Public or private schools.
  5. Public Buildings.
  6. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  7. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  8. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
  9. Special events permitted through the provisions of Chapter 235 of this ordinance.
- D. Additional Criterion for Conditional Uses. In addition to the requirements of Chapter 210, those Conditional Uses listed in Section 550.03(C) must meet the following requirement:
1. The proposed use is intended as a valid service contribution to the rural area.
- E. Minimum Lot Size. In an RSA Zone, the minimum lot size shall be determined by the Department of Environmental Quality as necessary for the protection of the public health, but shall be no less than 7,500 square feet, subject to the approval of the Department of Environmental Quality regarding sub-surface sewage disposal.

## 550.04 Rural Commercial Zone (RC)

- A. Purpose. The Rural Commercial classification is intended to maintain pre-existing rural area commercial uses and to create and enhance opportunities for small scale, low impact and rural resources related commercial uses. Uses which serve the traveling public are also consistent with this classification. It is intended that new uses will not exceed the capacity of the area to provide water and will not use a public sewage disposal system.
- B. Uses Permitted Through a Type I Procedure:
1. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
  2. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  3. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  4. Special events permitted through the provisions of Chapter 235 of this ordinance.
- C. Uses Permitted Through a Type II Procedure:
1. In the RC Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.06 and the general provisions and exceptions set forth by this Ordinance:
    - a. Commercial uses that require proximity to rural resources and/or rely on rural resources for day to day operation.
    - b. Non-resource commercial uses permitted under Goals 3 and 4.
  2. In the RC Zone, the following uses and their accessory uses shall be permitted in a building or buildings not exceeding 3,000 square feet of floor space when authorized in accordance with the provisions of Section 115.06 and the general provisions and exceptions set forth by this Ordinance:
    - a. Retail sales of previously prepared agricultural or forestry products.
    - b. Veterinary clinic.
    - c. Grocery store.
    - d. Antique, art, gift, handicraft, novelties or other similar stores; and second hand stores if conducted wholly within an enclosed building.
    - e. Restaurant, café or delicatessen.
    - f. Sporting goods sales, including outdoor recreational equipment rental and repair.

- g. Automobile service station and repair garages, provided that greasing and tire repairing are performed completely within an enclosed building.
- h. General store or mercantile.
- i. Seed and garden supplies, agricultural supplies and machinery sales store.
- j. Nurseries (landscape items).
- k. Taverns.
- l. Public and semi-public buildings and uses.
- m. Parks, playgrounds or community centers.
- n. Single-family residence in conjunction with a permitted use.
- o. A dwelling above a commercial structure.
- p. Farm and forest machinery repair.
- q. Manufacture of products used in agricultural or forestry operations for sale on premises only; such as hay trailers, fencing and water tanks.
- r. Manufacture of handicraft goods for sale on premises only; such as wooden wares, pottery, tile and archery wares.

D. Uses Permitted Through a Type III Procedure. In the RC Zone, the following uses and their accessory buildings and uses may be when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210:

1. Manufactured Home Parks.
2. Recreational Vehicle Parks.
3. Specialized commercial recreational facilities.
4. Non-resource commercial uses conditionally permitted under Goals 3 and 4.
5. Public Buildings.
6. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
7. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
8. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.



9. Special events permitted through the provisions of Chapter 235 of this ordinance.

E. Development Standards:

1. Area. No standard established, except that:

- a. The site shall be of sufficient size to accommodate an on-site sewer system and water system, unless such system can be accessed by easement or water is to be provided by a public provider; and
- b. For residential uses, the standards of the RR Zones (RR-2 or RR-5) shall apply.

2. Coverage. No more than 60% of the property shall be covered by all buildings located thereon.

3. Setbacks.

- a. Front Yard. Fifteen (15) feet from the public right-of-way.
- b. Side Yard. Five (5) feet.
- c. Rear Yard. No rear yard setback is required when abutting a commercial or industrial designated parcel. When not abutting a commercial or industrial parcel, no structure other than a fence or sign shall be located closer than five (5) feet from the rear property line.
- d. Vision Clearance. Vision clearance on corner properties shall be a minimum of 20 feet.
- e. Resource Land. Any development which has a yard area abutting a Goal 3 or 4 resource zone shall have no structures other than a fence or sign located closer than 25 feet from the Goal 3 or Goal 4 designated land.

4. Height. Maximum height of any structure shall be 35 feet.

5. Signs. See Chapter 730.

6. Parking. Off-street parking shall be provided in accordance with Chapter 330.

7. Access. Access improvements may be required by Baker County on County Roads for uses authorized in the RC Zone. Such improvements shall be directly related to the impact of the use on adjacent properties and vehicular movement.

## 550.05 Rural Industrial Zone (RI)

A. Purpose. The Rural Industrial classification is intended to maintain pre-existing rural area industrial uses and to create and enhance opportunities for small scale, low impact and resource related industrial uses. It is also intended to provide for new uses that will not exceed the capacity of the area to provide water and absorb sewage. While uses located within this zone are intended to provide employment opportunities, it is the intent of this zone to support resource related industries and rural levels of industrial development which have a limited impact on surrounding uses, communities and cities and which do not require public sewage disposal.

### B. Uses Permitted Through a Type I Procedure:

1. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
2. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
3. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
4. Special events permitted through the provisions of Chapter 235 of this ordinance.

### C. Uses Permitted Through a Type II Procedure:

1. In the RI Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.06:
  - a. Industrial uses existing on or before June 30, 2005, not otherwise listed in this zone, and, if in a building or buildings, the total square footage does not exceed 7,500 square feet.
  - b. Resource related industrial uses that require proximity to rural resources and/or rely on rural resources for day to day operation.
  - c. Non-resource industrial uses permitted under Goals 3 and 4.
  - d. One manufactured home or watchman's quarters in conjunction with a permitted or conditional use.
2. In the RI Zone, the following uses and their accessory buildings and uses are permitted in a building or buildings not exceeding 7,500 square feet of floor space shall be permitted when authorized in accordance with the provisions of Section 115.06 and the general provisions and exceptions set forth by this Ordinance:
  - a. Freight and truck storage, repair, service, staging and point of operation for resource related trucking operations such as log trucks, chip trucks and gravel trucks and accessory equipment.
  - b. Welding and machine shop.
  - c. Wholesale business, storage buildings, warehouses and bulk fuel storage facilities.

- d. Manufacturing or compounding of items used in the agricultural or forest products industry and other items which, due to impacts, are hazardous or incompatible in densely populated areas.
- e. Storage of industrial equipment or supplies.

D. Uses Permitted Through a Type III Procedure. In the RI Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall require a Conditional Use Permit as described in Chapter 210:

- 1. Salvage yard.
- 2. Automobile wrecking yard.
- 3. Slaughterhouse.
- 4. Manufacture and/or storage of explosives.
- 5. Disposal site (not to be visible from a public arterial roadway).
- 6. Public Buildings.
- 7. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
- 8. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
- 9. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
- 10. Special events permitted through the provisions of Chapter 235 of this ordinance.

E. Development Standards.

- 1. Area. No standard established, except that the site shall be of sufficient size to accommodate an on-site sewer system and water system, unless such system can be accessed by easement or water is to be provided by a public provider.
- 2. Coverage.
  - a. Sixty percent (60%) building coverage is allowable provided that space for servicing, parking, deliveries, and building access have been provided.
  - b. Buildings supporting a use existing on or before June 30, 2005, may be expanded up to 7,500 square feet.
- 3. Setbacks.

- a. Front Yard. 15 feet from the public right-of-way.
  - b. Side and Rear Yard. Side and rear yards shall be a minimum of five (5) feet.
  - c. Vision Clearance. Vision clearance on corner properties shall be at least 10 feet.
  - d. Resource Land. Any development which is abutting a Goal 3 or Goal 4 resource zone shall have no structures other than a fence or sign located closer than 25 feet from the Goal 3 or Goal 4 designated land.
4. Height. No structure shall exceed a height of 35 feet except where approved by the Oregon State Fire Marshal.
  5. Signs. See Chapter 730.
  6. Parking. Off-street parking shall be provided in accordance with Chapter 330.
  7. Environmental Quality. All uses in the RI Zone shall comply with standards adopted by the Environmental Quality Commission for air, land, water and noise.
  8. Access. Access improvements may be required by Baker County, on County Roads, for uses authorized in the RI Zone. Such improvements shall be directly related to the impact of the use on adjacent properties and vehicular movement.

## **Chapter 610**

### **AIRPORT OVERLAY ZONE (AOZ)**

- 610.01 Purpose**
- 610.02 Procedure**
- 610.03 Uses**
- 610.04 Development Standards**
- 610.05 New Water Impoundments Prohibited**
- 610.06 Bird Strike Hazard Review**
- 610.07 Bird Strike Study**

**610.01 Purpose.** The purpose of this Chapter is to provide the rules, regulations and standards governing permissible uses in the Airport Overlay Zone.

#### **610.02 Procedure**

- A. Any land use action within the Airport Overlay Zone is subject to the regulations herein described and those of the underlying zone. If any conflicts in regulation or procedure occur between the zones, the provisions of the Airport Overlay Zone shall govern.
- B. The Airport Overlay Zone is identified by the 1995 Baker City Municipal Airport Master Plan (BCMAMP) and the 2003 Oregon Department of Aviation Airport Land Use Compatibility Guidebook (ALUCG) and performs three functions:
  - 1. Sets the boundary for the Airport Overlay Zone.
  - 2. Defines the Federal Aviation Regulations for height restriction.
  - 3. Limits structures within airport approach zones.

#### **610.03 Uses**

- A. Permitted and conditional uses shall be as defined in the underlying zone, with exceptions as noted in Sections 610.03(B) and (C).
- B. Dwellings, residences and replacement dwellings are not allowed in the Runway Protection Zone (RPZ).
- C. The following uses are prohibited in the Airport Overlay Zone:
  - 1. Landfills and garbage dumps.
  - 2. Churches, auditoriums, schools, hospitals, and day-care centers and other public or private meeting places which are designed to accommodate more than 25 persons at one time.
  - 3. Uses which interfere with aviation resulting from height of structures, glare from buildings, smoke, lights which shine upward, and radio interference from transmission.

4. All structures not in relation to navigation within the Runway Protection Zone (RPZ).

**610.04 Development Standards.** The following development standards shall apply:

- A. All conditional uses are subject to the application and site plan requirements of Section 115.03(E) and Section 310.04(A).
- B. The height of any structure or part of a structure, such as a chimney, tower, antenna, etc., shall be limited according to requirements established by FAA, part 77 Airport Imaginary Surfaces, and OAR 738-070.
- C. All new public use airports, heliports or landing fields shall be designed so that the incidence of aircraft passing in the vicinity of dwellings or places of public assembly is minimized. They shall be located so that air traffic shall not constitute a nuisance to neighboring uses. The proponents shall show that adequate controls or measures will be taken to reduce noise levels, vibrations, dust or bright lights.
- D. All landowners requesting permission to construct a dwelling in the Airport Overlay Zone must sign a "*Hold Harmless Agreement*" before final approval, which is available from the Planning Director.

**610.05 New Water Impoundments Prohibited.** No new water impoundments shall be allowed in the following areas:

- A. Within 5,000 feet from the end or edge of a runway; or
- B. On land owned by the airport or airport sponsor where the land is necessary for airport operations.

**610.06 Bird Strike Hazard Review.** Baker County shall review land use proposals which include a water impoundment within a bird strike hazard area defined as between 5,000 and 10,000 feet of the edge or end of a runway surface for the Baker City Airport.

- A. The landowner or authorized agent for a land use proposal that includes a water impoundment within a bird strike hazard area shall prepare an application per Section 610.07.
- B. The application in Section 610.06(A) shall be reviewed as a Conditional Use, requiring Planning Commission review as described in Chapter 115 and Chapter 210.
- C. In addition to parties given notice in Chapter 115, the Planning Department will notify the Portland Office of the USDA Wildlife Service, the Federal Aviation Administration (FAA) Seattle Airports District Office, Oregon Department of Fish & Wildlife, Oregon Aeronautics and the airport sponsor at least 15 days prior to a Planning Commission evidentiary public hearing.
- D. The Planning Commission shall make a final decision per Chapter 115 and Chapter 210 based on a determination of whether the applicant has satisfactorily prepared a Bird Strike Study, per Section 610.07 and whether the applicant has demonstrated the proposed water impoundment is not likely to result in a significant increase in hazardous bird movement across runways and approach corridors due to feeding, watering or roosting. "*Significant*" is defined as a level of increased flight activity by

birds across approach corridors and runways that is more than incidental or occasional, considering the existing ambient levels of flight activity by birds in the vicinity.

**610.07 Bird Strike Study.** Procedures and standards for the review of potential bird attractants within the bird strike hazard area shall provide for early coordination with the airport sponsor, the FAA and the FAA technical representative.

- A. The local government may allow a potential bird attractant to be sited in the bird strike hazard area without a bird strike study. The applicant, the airport sponsor, the FAA and the FAA technical representative must agree that the use, with appropriate mitigation to minimize bird strike hazards, will not significantly increase hazardous bird movement across runways and approach corridors due to feeding, watering or roosting which could lead to potential collisions between birds and aircraft.
- B. Where a bird strike study is required it shall be coordinated with representatives of the airport sponsor, FAA and FAA's technical representative throughout the course of the study. Coordination shall include an opportunity to participate in the development of the study work scope and in the review of the study draft. The airport sponsor, FAA and FAA's technical representative shall have 30 days to review the study draft. Comments on the study shall be included and addressed in the final bird strike study. A bird strike study shall consider:
  1. A description of the proposed project, its location in relation to the airport, and the bird strike study area, which shall include at least the project site, the airport property, all lands within the bird strike hazard planning area and other surrounding habitat areas which form the local bird ecosystem;
  2. A description of existing and planned airport operations and air traffic patterns and a history of any available bird strike incidents.
  3. Baseline information on existing bird habitats, species and populations including seasonal populations of waterfowl, gulls and other bird species using the area;
  4. A description of existing bird populations, activity and flight patterns on a seasonal basis as they relate to airport traffic patterns. The airport sponsor will provide approach and departure air space information up to five statutory miles from the airport.
  5. An evaluation of the anticipated effect of the proposal on bird habitats in the study area and on bird activity and flight patterns. This evaluation shall consider proposed mitigation measures that meet the requirements of Section 610.07(E); and
  6. An evaluation of the anticipated effect of the proposal on the population density, behavior patterns and species composition of the birds within the study area.
    - a. Review of the Bird Strike Study. For purposes of the 150-day time limit for quasi-judicial decisions, an application for a use requiring a bird strike study shall be complete on the date the final bird strike study is submitted to the Planning Department. Upon receipt of the study and if the application is otherwise complete, the Planning Department shall commence its Type III land use hearings process consistent with Chapter 115 and Chapter 210.
    - b. Approval Standard. The applicant shall demonstrate that the proposal is consistent with mandatory requirements of the acknowledged Comprehensive Plan and land use regulations.

The proposal will not significantly increase hazardous bird movement across runways and approach corridors due to feeding, watering or roosting which lead to potential collision between birds and aircraft. A significant increase may be measured by changes in the density, behavior patterns or species composition of bird populations.

c. Mitigation.

1. Where a proposal requires mitigation to meet the requirements of Section 610.07(D), the Planning Commission may only consider measures that are shown to be safe, effective, consistent with applicable laws and based on accepted technology and industry practices.
2. The Planning Commission shall require the applicant to undertake reasonable and practicable mitigation measures adequate to meet the requirements of Section 610.07(D) and intended to minimize the potential hazard to air navigation.
3. Mitigation measures may only be considered where they are customary management practices and where adequate and secure financial support is provided (i.e. performance bond) to assure perpetual implementation. Perpetual means ongoing implementation as long as a potential bird strike hazard persists. If the airport is declassified or moved, or the proposed water impoundment is continuously de-watered resulting in reduced or eliminated bird strike hazards mitigation measures could be revisited or eliminated through a Conditional Use review process.
4. Where a proposal requires mitigation to meet bird strike requirements, the Planning Commission shall require specific mitigation measures and compliance with conditions as part of its decision approving the application.



**Chapter 620**  
**BIG GAME HABITAT OVERLAY ZONE (BGHO)**

- 620.01 Purpose**
- 620.02 Effect of the Overlay Zone**
- 620.03 Permitted Uses**
- 620.04 Minimum Parcel Sizes**

**620.01 Purpose.** The purpose of the Big Game Habitat Overlay Zone (BGHO) is to conserve and protect the valuable habitat of elk, deer, antelope and other big game species in the County while allowing development at a density that will not significantly reduce the carrying capacity of the developing areas.

**620.02 Effect of the Overlay Zone.** The Big Game Habitat Overlay Zone shall be placed over the existing underlying zoning district. The requirements and standards contained in this Chapter shall apply in addition to those specified for the underlying zoning district. If a conflict in regulations or standards occurs, the provisions of the Big Game Habitat Overlay Zone shall take precedence.

**620.03 Permitted Uses**

- A. Permitted uses. Uses permitted outright and conditionally in the underlying zoning district shall be permitted in the Big Game Habitat Overlay Zone if they will not result in the degradation of critical big game habitat.
- B. Big game feeding stations. Additional standards for permanent and temporary big game feeding stations can be found in the applicable underlying zone.

**620.04 Minimum Parcel Sizes.** If land in the EFU or TG Zone is also located in the Big Game Habitat Overlay Zone, the minimum parcel size for a non-farm, template test, lot of record dwellings shall be 40 acres, unless the parcel on which the dwelling is to be located was legally created prior to January 1, 1986. If the parcel is less than 40 acres, but was legally created prior to January 1, 1986, it is considered a pre-existing, non-conforming parcel and a non-farm or lot of record dwelling may be allowed subject to the following conditions:

- A. The dwelling will be located within 200 feet of a public road. If the road access to the dwelling is owned or maintained by the Oregon Department of Forestry, the Bureau of Land Management, or the U.S. Forest Service, the applicant shall provide proof of a road access use agreement.
- B. There is no other dwelling located on the property.

**Chapter 630**  
**FLOODPLAIN DEVELOPMENT ZONE (FOZ)**

- 630.01 Statutory Authority, Findings of Fact, Purpose and Methods**
- 630.02 General Provisions**
- 630.03 Administration**
- 630.04 Provisions for Flood Hazard Reduction**

**630.01 Statutory Authority, Findings of Fact, Purpose, And Methods**

- A. Statutory Authorization. The State of Oregon has, in ORS 197.175, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, Baker County does ordain as follows:
- B. Findings of Fact.
  - 1. The flood hazard areas of Baker County are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
  - 2. These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to flood loss.
- C. Statement of Purpose. It is the purpose of this ordinance to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:
  - 1. Protect human life and health;
  - 2. Minimize expenditure of public money for costly flood control projects;
  - 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - 4. Minimize prolonged business interruptions;
  - 5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;
  - 6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
  - 7. Notify potential buyers that the property is in a special flood hazard area
  - 8. Notify those who occupy special flood hazard areas that they assume responsibility for their actions

9. Participate in and maintain eligibility for flood insurance and disaster relief.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this ordinance includes methods and provisions for:

1. Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage;
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

## **630.02 General Provisions**

A. Lands to Which this Ordinance Applies. This ordinance shall apply to all special flood hazard areas within the jurisdiction of Baker County.

B. Basis for Establishing the Special Flood Hazard Areas. The special flood hazard areas identified by the federal insurance administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Baker County, Oregon and Incorporated Areas", dated June 3rd, 1988, with accompanying flood insurance rate maps (FIRMS) 41001C0025C, 41001C0040C, 41001C0050C, 41001C0075C, 41001C0100C, 41001C0125C, 41001C0150C, 41001C0175C, 41001C0200C, 41001C0225C, 41001C0250C, 41001C0275C, 41001C0295C, 41001C0300C, 41001C0325C, 41001C0350C, 41001C0365C, 41001C0375C, 41001C0385C, 41001C0395C, 41001C0400C, 41001C0425C, 41001C0450C, 41001C0475C, 41001C0500C, 41001C0525C, 41001C0550C, 41001C0575C, 41001C0600C, 41001C0625C, 41001C0650C, 41001C0675C, 41001C0700C, 41001C0725C, 41001C0750C, 41001C0775C, 41001C0800C, 41001C0825C, 41001C0850C, 41001C0875C, 41001C0900C, 41001C0925C, 41001C0950C and 41001C0975C are hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at the Baker City-County Planning Department.

C. Coordination with State of Oregon Specialty Codes. Pursuant to the requirement established in ORS 455 that Baker County administers and enforces the State of Oregon Specialty Codes, Baker County does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

D. Compliance and Penalties for Non-Compliance

1. Compliance. All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.
2. Penalties for Non-Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Ordinance and other applicable regulations. Violations of the provisions of this Ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction, which shall be processed accordingly in accordance with Chapter 140 - Enforcement. Nothing contained herein shall prevent Baker County from taking such other lawful action as is necessary to prevent or remedy any violation.

E. Abrogation and Severability.

1. Abrogation. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
2. Severability. This ordinance and the various parts thereof are hereby declared to be severable. If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

F. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

G. Warning and Disclaimer of Liability.

1. Warning. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.
2. Disclaimer of Liability. This Ordinance shall not create liability on the part of Baker County, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

### **630.03 Administration**

- A. Designation of the Floodplain Administrator. The Planning Director, and their designee, is hereby appointed to administer, implement, and enforce this Ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

B. Duties and Responsibilities of the Floodplain Administrator. Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

1. Permit Review. Review all development permits to:

- a. Determine that the permit requirements of this Ordinance have been satisfied;
- b. Determine that all other required local, state, and federal permits have been obtained and approved.
- c. Determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this ordinance in Section 630.04(B)(4) are met; and
- d. Determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available, then ensure compliance with the provisions of Section 630.04(A)(7); and
- e. Provide to building officials the Base Flood Elevation (BFE) and minimum elevation required for any building requiring a development permit.
- f. Determine if the proposed development qualifies as a substantial improvement as defined in Chapter 150 of this Ordinance.
- g. Determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in Section 630.04(A)(1).
- h. Determine if the proposed development activity includes the placement of fill or excavation.

2. Information to be Obtained and Maintained. The following information shall be obtained and maintained and shall be made available for public inspection as needed:

- a. The actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with Section 630.04(A)(7).
- b. The elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of Sections 630.04(B)(4) and 630.03(B)(1) are adhered to.
- c. A mid-construction elevation certificate, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement) upon placement of the lowest floor of a structure (including basement), but prior to further vertical construction.
- d. Where base flood elevation data are utilized, a post-construction elevation certificate, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement), prior to the final inspection.
- e. Elevation Certificates (EC) submitted to Baker County;
- f. The elevation (in relation to mean sea level) to which the structure and all attendant utilities were flood-proofed for all new or substantially improved flood-proofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with Section 630.04(A)(7).

- g. Flood-proofing certificates required under this Ordinance;
- h. All variance actions, including justification for their issuance;
- i. All hydrologic and hydraulic analyses performed as required under Section 630.04(B)(4).
- j. All Substantial Improvement and Substantial Damage calculations and determinations as required under Section 630.03(B)(3)(d).
- k. All records pertaining to the provisions of this Ordinance.

3. Requirement to Notify Other Entities and Submit New Technical Data

- a. Community Boundary Alterations. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBMs) and Flood Insurance Rate Maps (FIRMs) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.
- b. Watercourse Alterations. Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:
  - i. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
  - ii. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under Section 630.03(B)(3)(c). The Floodplain Administrator shall ensure compliance with all applicable requirements in Sections 630.03(B)(3)(c) and 630.04(A)(1).

- c. Requirement to Submit New Technical Data. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this Section through the applicable FEMA Letter of Map Change (LOMC) process.

The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

- i. Proposed floodway encroachments that increase the base flood elevation; and
- ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR). The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this Ordinance and all applicable state and federal laws.

- d. **Substantial Improvement and Substantial Damage Assessments and Determinations.** Conduct Substantial Improvement (SI) (as defined in Chapter 150) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with Section 630.03(B)(2). Conduct Substantial Damage (SD) (as defined in Chapter 150) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in Section 630.02(B)) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
4. **Interpretation of FIRM Boundaries.** Make interpretations where needed, as to exact location of the boundaries of the special flood hazard areas (i.e., where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

#### C. Establishment of Development Permit

1. **Floodplain Development Permit Required.** A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in Section 630.02(B). The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in Chapter 150, including fill and other development activities.
2. **Application for Development Permit.** Application for a development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
  - a. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of Section 630.03(B)(2).
  - b. Proposed elevation in relation to mean sea level to which any non-residential structure will be flood-proofed.
  - c. Certification by a registered professional engineer or architect licensed in the State of Oregon that the flood-proofing methods proposed for any non-residential structure meet the flood-

proofing criteria for non-residential structures in Section 630.04(B)(3)(c).

- d. Description of the extent to which any watercourse will be altered or relocated.
- e. Base Flood Elevation data for subdivision proposals or other development when required per Sections 630.03(B)(1) and 630.04(A)(6).
- f. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
- g. The amount and location of any fill or excavation activities proposed.

D. Variance Procedure. The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

1. Conditions for Variances.

- a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of Sections 630.03(D)(1)(c) and (e), and Section 630.03(D)(2). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
- b. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- c. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- d. Variances shall only be issued upon:
  - i. A showing of good and sufficient cause;
  - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
- e. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation of historic structures will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- f. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of Section 630.03(D)(1)(b) through (d) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.



2. Variance Notification. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with Section 630.03(B)(2).

## **630.04 Provisions for Flood Hazard Reduction**

**A. General Standards.** In all special flood hazard areas, the following standards shall be adhered to:

1. Alteration of Watercourses. Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance be provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with Sections 630.03(B)(3)(b) and (c).
2. Anchoring.
  - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - b. All manufactured dwellings shall be anchored per Section 630.04(B)(3)(d).
3. Construction Materials and Methods.
  - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
4. Utilities and Equipment.
  - a. Water Supply, Sanitary Sewer, And On-Site Waste Disposal Systems.
    - i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
    - ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
    - iii. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality (DEQ).
  - b. Electrical, Mechanical, Plumbing, And Other Equipment. Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water

from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities, if replaced as part of a substantial improvement, shall meet all the requirements of this Section.

5. Tanks.

- a. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
- b. Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

6. Subdivision Proposals & Other Proposed Developments.

- a. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or  $\pm 5$  acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.
- b. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:
  - i. Be consistent with the need to minimize flood damage.
  - ii. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
  - iii. Have adequate drainage provided to reduce exposure to flood hazards.

7. Use of Other Base Flood Data. When Base Flood Elevation data has not been provided in accordance with Section 630.02(B), the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer Section 630.04. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of Section 630.04(A)(6).

Base Flood Elevations shall be determined for development proposals that are  $\pm 5$  acres or more in size or are 50 lots or more, whichever is lesser, in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

8. Structures Located in Multiple or Partial Flood Zones. In coordination with the State of Oregon Specialty Codes:

- a. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.

b. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

9. Critical Facilities. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities shall be permissible within the SFHA only if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above the Base Flood Elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility shall also be protected to the height utilized above. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.

**B. Specific Standards for Riverine (Including All Non-Coastal) Flood Zones.** These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in Section 630.04(A) of this Ordinance.

1. Flood Openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

- a. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;
- b. Be used solely for parking, storage, or building access;
- c. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
  - i. A minimum of two openings.
  - ii. The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls.
  - iii. The bottom of all openings shall be no higher than one foot above grade.
  - iv. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.
  - v. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

2. Garages.

- a. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
  - i. If located within a floodway the proposed garage must comply with the requirements of Section 630.04(B)(4).

- ii. The floors are at or above grade on not less than one side;
  - iii. The garage is used solely for parking, building access, and/or storage;
  - iv. The garage is constructed with flood openings in compliance with Section 630.04(B)(1) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
  - v. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
  - vi. The garage is constructed in compliance with the standards in Section 630.04(A); and
  - vii. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- b. Detached garages must be constructed in compliance with the standards for accessory structures in Section 630.04(B)(3)(f) or non-residential structures in Section 630.04(B)(3)(c) depending on the square footage of the garage.
3. For Riverine (Non-Coastal) Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in Section 630.04(A) the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.
- a. Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
  - b. Residential Construction.
    - i. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above one foot above the Base Flood Elevation (BFE) or three feet above highest adjacent grade where no BFE is defined.
    - ii. Enclosed areas below the lowest floor shall comply with the flood opening requirements in Section 630.04(B)(1).
  - c. Non-Residential Construction.
    - i. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE) or three (3) feet above highest adjacent grade where no BFE is defined; or, together with attendant utility and sanitary facilities:

- a) Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this Section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth Section 630.03(B)(2).
- ii. Non-residential structures that are elevated, not flood-proofed, shall comply with the standards for enclosed areas below the lowest floor in Section 630.04(B)(1).
  - iii. Applicants flood-proofing non-residential buildings shall:
    - a) Be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood-proofed level (e.g. a building flood-proofed to the base flood level will be rated as one (1) foot below);
    - b) Supply a maintenance plan for the entire structure, including but not limited to: exterior envelop of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide flood-proofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components, as well as all associated hardware, and any materials or specialized tools necessary to seal the structure; and
    - c) Supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.
- d. Manufactured Dwellings.
- i. New or substantially improved manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 630.04(B)(1);
  - ii. The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;
  - iii. New or substantially improved manufactured dwellings shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;
  - iv. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).
- e. Recreational Vehicles. Recreational vehicles placed on sites are required to:
- i. Be on the site for fewer than 180 consecutive days; and

- ii. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  - iii. Meet the requirements of Section 630.04(B)(3)(d), including the anchoring and elevation requirements for manufactured dwellings.
- f. Accessory Structures. Relief from elevation or flood-proofing requirements for residential and non-residential structures in Riverine (Non-Coastal) flood zones may be granted for accessory structures that meet the following requirements:
- i. Accessory structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in Section 630.04(B)(4).
  - ii. Accessory structures must only be used for parking, access, and/or storage and shall not be used for human habitation;
  - iii. In compliance with State of Oregon Specialty Codes, accessory structures on properties that are zoned residential are limited to one-story structures less than  $\pm 200$  square feet, or  $\pm 400$  square feet if the property is greater than two ( $\pm 2$ ) acres in area and the proposed accessory structure will be located a minimum of  $\pm 20$  feet from all property lines. Accessory structures on properties that are zoned as non-residential are limited in size to  $\pm 120$  square feet.
  - iv. The portions of the accessory structure located below the Base Flood Elevation must be built using flood resistant materials;
  - v. The accessory structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
  - vi. The accessory structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in Section 630.04(B)(1);
  - vii. Accessory structures shall be located and constructed to have low damage potential;
  - viii. Accessory structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with Section 630.04(A)(5).
  - ix. Accessory structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- g. Below-Grade Crawlspace.
- i. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the flood opening requirements contained in Section 630.04(B)(1).

Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

- ii. The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
  - iii. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
  - iv. Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
  - v. The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
  - vi. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
  - vii. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.
  - viii. The velocity of floodwaters at the site shall not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.
4. Floodways. Located within the special flood hazard areas established in Section 630.02(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:
    - i. Certification by a registered professional civil engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering

practice, that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or,

- ii. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, Section 65.12 are fulfilled. If an encroachment proposal resulting in an increase in Base Flood Elevation meets the following criteria, then an approved CLOMR may not be required prior to approval of a floodplain permit, as determined by the Floodplain Administrator:
    - a) Is for the purpose of fish enhancement;
    - b) Does not involve the placement of any structures (as defined in Chapter 150) within the floodway;
    - c) Has a feasibility analysis completed documenting that fish enhancement will be achieved through the proposed project;
    - d) Has a maintenance plan in place to ensure that the stream carrying capacity is not impacted by the fish enhancement project;
    - e) Has approval by the National Marine Fisheries Service, the State of Oregon Department of Fish and Wildlife, or the equivalent federal or state agency; and
    - f) Has evidence to support that no existing structures will be negatively impacted by the proposed activity.
  - b. If the requirements of Section 630.04(B)(4)(a) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of Section 630.04(B).
5. Standards for Shallow Flooding Areas. Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones, the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.
- a. Standards for AH Zones. Development within AH Zones must comply with the standards in Sections 630.04(A), 630.04(B), and 630.04(B)(5)(a).
  - b. Standards for AO Zones. In AO zones, the following provisions apply in addition to the requirements in Sections 630.04(A), and 630.04(B)(5)(a):
    - i. New construction and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, a minimum one (1) foot above the depth number specified on the FIRM (at least three (3) feet if no depth number is specified). For



manufactured dwellings, the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

- ii. New construction and substantial improvements of non-residential structures within AO zones shall either:
  - a) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, a minimum one (1) foot above the depth number specified on the FIRM (at least three (3) feet if no depth number is specified); or
  - b) Together with attendant utility and sanitary facilities, be completely flood-proofed to or above the highest adjacent grade of the building site, a minimum one (1) foot above the depth number specified on the FIRM (at least three (3) feet if no depth number is specified), so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in Section 630.04(B)(3)(a)(iv).
- iii. Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:
  - a) Be on the site for fewer than 180 consecutive days, and
  - b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  - c) Meet the elevation requirements of Section 630.04(B)(5)(b)(i), and the anchoring and other requirements for manufactured dwellings of Section 630.04(B)(5)(b)(ii).
- iv. In AO zones, new and substantially improved accessory structures must comply with the standards in Section 630.04(B)(3)(f).
- v. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in Section 630.04(B)(1).

**Chapter 640**  
**SENSITIVE BIRD HABITAT CONSULTATION OVERLAY ZONE [SBHCOZ]**

- 640.01 Purpose**
- 640.02 Definition of Sensitive Habitat**
- 640.03 Requirements**
- 640.04 Notice**

**640.01 Purpose.** The purpose of the Sensitive Bird Habitat Consultation Overlay Zone is to insure that all Conditional Uses and new buildings requiring a building permit or agricultural exemption in this overlay zone are reviewed by the Oregon Department of Fish and Wildlife (ODFW). The review is to allow ODFW to consult with the applicant relating to the effects of development on bird habitat prior to establishing the use. The recommendations of ODFW are for consultation purposes, and will not be considered binding to the applicant or to the Planning Director.

**640.02 Definition of Sensitive Habitat Sites.** For purposes of this Chapter, a sensitive bird habitat is defined as critical habitat necessary to the continuation of sensitive bird populations, including nesting, courtship, brood rearing and winter habitat. The areas included within the Sensitive Bird Habitat Consultation Overlay Zone shall be defined on the sensitive bird habitat map provided by the ODFW to the Baker County Planning Department. Habitat may include grouse leks, bald and golden eagle nests, great blue heron rookeries, or bald eagle communal roosts.

**640.03 Requirements.** The Baker County Planning Department shall provide ODFW opportunity to consult with applicants on Conditional Uses and new buildings requiring a building permit or an agricultural exemption occurring within the Sensitive Bird Habitat Consultation Overlay Zone by providing the applicant a Sensitive Bird Habitat Comment form to be completed by ODFW. The Sensitive Bird Habitat Comment form shall include the property location, description of the proposed development, and space for ODFW to provide comments. A map shall be attached to the comment form. The applicant shall be responsible for providing ODFW the form, then returning the form complete with ODFW acknowledgement, to the Planning Department. All applications for Conditional Uses and new buildings requiring a building permit or agricultural exemption will be considered incomplete until the comment form is submitted.

**640.04 Notice.** When notice is required for any Conditional Uses or new buildings requiring a building permit or agricultural exemption as required by Chapter 115, and the proposed development occurs within the Sensitive Bird Habitat Consultation Overlay Zone, ODFW shall also be provided notice and opportunity to comment.

## Chapter 650

### NATIONAL HISTORIC OREGON TRAIL INTERPRETIVE CENTER OVERLAY ZONE [NHOTICOZ]

#### 650.01 Purpose

#### 650.02 Definition

#### 650.03 Requirements

**650.01 Purpose.** The purpose of the National Historic Oregon Trail Interpretive Center Overlay Zone is to establish a review process for land use actions within the Interpretive Center viewshed overlay. The review process is to allow the Bureau of Land Management (BLM) to comment on proposed land use actions prior to establishing the use.

**650.02 Definition.** The National Historic Oregon Trail Interpretive Center viewshed is a visual resource. The overlay is meant to retain the historical character of the landscape and is identified on the NHOTICOZ viewshed map at the Baker County Planning Department.

**650.03 Requirements.** The Baker County Planning Department shall provide notification and opportunity to the BLM to comment on land use actions occurring within the viewshed, upon determination of a complete application as described in Section 115.03(E). The BLM shall review the proposed action and respond with an outline of concerns, if any, to the Planning Department. If the BLM does not respond within 20 days of receiving the notice, it will be determined, by the Planning Department, that there are no concerns with the proposed land use action.

**Chapter 660**  
**WETLANDS OVERLAY ZONE [WOZ]**

**660.01 Purpose**

**660.02 Applicability**

**660.03 DSL Notification Procedure**

**660.01 Purpose.** The purpose of the Wetlands Overlay Zone is to provide for the protection of ecologically- and scientifically-significant wetlands in the County in compliance with notification requirements established by the Oregon Department of State Lands (DSL), while providing an expedient process for reviewing land uses that may affect these areas when they are identified. DSL processes state wetland permits and coordinates its efforts with the US Army Corps of Engineers, which issues federal permits. Under the provisions of Oregon Administrative Rule (OAR) 660-023-0100(5) relating to the protection of certain natural resources through local comprehensive plans, a county may adopt by reference the Statewide Wetland Inventory (SWI) in lieu of preparing a Local Wetland Inventory (LWI), for areas outside Urban Unincorporated Communities (UUCs).

**660.02 Applicability.** The following land use actions require review under the provisions of this Chapter if the subject site contains a wetland identified in the SWI:

- A. Subdivisions.
- B. Planned Unit Developments.
- C. Conditional use permits and variances that involve physical alterations of the land and/or construction of a new structure.
- D. Building permits for new structures.
- E. All other site development that involves physical alteration of the land involving excavation and grading, including permits for removal and/or fill, or development in floodplains and floodways.

**660.03 DSL Notification Procedure.** As governed by ORS 215.418, counties are required to notify DSL when a land use or related activity identified in Section 660.02 is proposed partially or wholly within SWI-designated wetland, known as a “*jurisdictional wetland*” for the purposes of this Chapter. In such cases, the County Planning Department will use the following notification procedure.

- A. Determine applicability. The County Planning Department staff will examine the adopted SWI maps and site development plans to determine if the proposed development would occur partially or wholly within a mapped jurisdictional wetland.
- B. Complete notification form. If it appears that the proposed development occurs partially or wholly within a designated jurisdictional wetland, the County Planning Department shall complete a Wetland Land Use Notification Form provided by DSL within five days after the site development application is deemed complete per the requirements of Section 115.03(E).
- C. Review required documentation. As part of the completeness check, the County Planning Department will ensure that there is a site plan of sufficient scale to illustrate the proposed disturbance area in relationship to the boundaries of the designated resource. If this site plan is not included in the

application, the County Planning Department will not deem the application complete until such documentation is provided by the applicant.

- D. Inform applicant of pending DSL review. The County Planning Department shall inform the applicant that the site may include a jurisdictional wetland(s) and that, if this is the case, a permit may be required by state and/or federal agencies. DSL has 30 days in which to respond to the County, landowner and applicant. The County Planning Department is not required to notify the landowner or applicant of DSL's decision.
- E. Process application. After notifying DSL, the County Planning Department shall continue to process the land use or related action, subject to the regulations in this Ordinance. The County shall issue its final decision whether or not DSL has responded. If DSL has failed to respond to the County's notification, the County Planning Department shall have no liability if it notifies the applicant that a state and/or federal permit(s) may still be required.
- F. County Planning Department decision.
  - 1. If DSL responds prior to its decision on the application, the County Planning Department may acknowledge DSL's determination in the final decision, noting as a condition of approval that the applicant is required to fulfill all requirements and conditions of the DSL determination.
  - 2. If the County Planning Department approves the permit before the DSL responds, it shall include the following condition of approval: *"All or a portion of this property has been identified as a jurisdictional wetland on the state-wide wetlands inventory adopted by Baker County by reference. If the site is a jurisdictional wetland, this proposal may require a permit from the Department of State Lands and/or the US Army Corps of Engineers. You must obtain any necessary state or federal permits before beginning your project. Baker County is not liable for any delays in the processing of a state or federal permit."*

**Chapter 670**  
**LIMITED USE OVERLAY ZONE (LUOZ)**

- 670.01 Purpose**
- 670.02 Applicability**
- 670.03 Purpose of the Limited Use Overlay Zone**
- 670.04 Limited Use Overlay Zone Requirements**
- 670.05 Procedures**
- 670.06 Limitations on Uses**
- 670.07 Adoption**
- 670.08 Official Plan/Zoning Map**
- 670.09 Site Plan Requirement**

**670.01 Purpose.** The purpose of this Chapter is to specify the conditions of the Limited Use Overlay Zone, which may be applied to any zone in the County.

**670.02 Applicability.** In any zone(s) to which the Limited Use Overlay Zone is applied, the requirements and standards of this Section shall apply in addition to those specified in this Ordinance for the underlying zone(s). In the event of a conflict between the requirements and standards of this Section and those of the underlying zones, the provisions of this Section shall govern.

**670.03 Purpose of the Limited Use Overlay Zone**

- A. The purpose of the Limited Use Overlay Zone is to limit the list of permitted uses and general activities allowed in the underlying zone, when a plan amendment and zone change rezones a parcel to that underlying zone through the taking of an exception to a statewide land use planning goal under ORS 197.732.
- B. The Limited Use Overlay Zone is an overlay zone which may be applied, where appropriate, to plan amendments/zone changes effected by either a “*physically developed*” exception under ORS 197.732(2)(a), an “*irrevocably committed*” exception under ORS 197.732(2)(b), or a “*reasons*” exception under ORS 197.732(2)(c).
- C. The Limited Use Overlay Zone, when adopted, shall carry out the requirement of Oregon Administrative Rule 660-004-0018 that where a goal exception is taken, permitted uses shall be limited to those uses justified by the exception statement.

**670.04 Limited Use Overlay Zone Requirements.** When the Limited Use Overlay Zone is applied, the uses permitted in the underlying zone shall be limited to those uses and general activities specifically set forth in the Ordinance adopting the underlying zone and the Limited Use Overlay Zone. Any change in those uses and general activities must be made through the plan/land use regulation amendment process outlined in Chapter 260.

**670.05 Procedures.** The Limited Use Overlay Zone shall be applied through the plan amendment and rezoning process at the time the underlying plan and/or zone designation is being changed.

**670.06 Limitations on Uses.** The following limitations shall apply to the underlying zone when the Limited Use Overlay Zone is applied. In all cases, the Hearings Body shall establish that:

- A. The uses and general activities subject to the rezoning are required to be limited to those uses and general activities justified in the goal exception taken.
- B. A review of all zones in this Ordinance demonstrates that no existing zone adequately limits the uses and general activities.
- C. The Limited Use Overlay Zone, when applied to the underlying zone, is consistent with the Comprehensive Plan and other applicable policies of the County.

**670.07 Adoption.** The ordinance adopting the underlying zone and the Limited Use Overlay Zone shall set forth those specific uses and general activities which will be permitted or conditional uses. The description of the permitted and conditional uses may be qualified as necessary to achieve the purpose of the Limited Use Overlay Zone.

**670.08 Official Plan/Zoning Map.** The official plan/zoning map shall be amended to show a Limited Use Overlay Zone suffix on any parcel where the Limited Use Overlay Zone has been applied.

**670.09 Site Plan Requirement**

- A. In addition to limiting the uses in the underlying zone where the Limited Use Overlay Zone is applied, the County may also require approval of the location of buildings, access, parking, screening and other site planning considerations in order to assure the compatibility of the permitted uses within the area.
- B. The process for reviewing the site plan shall be described at the time of the Limited Use Overlay Zone application. Site plan requirements may be added by specific reference in the Limited Use Overlay Zone adopting ordinance. Specifications and standards of the underlying zone remain in effect unless specifically altered by the site plan approval. Separate site plan approval shall not be required for any uses subject to a Conditional Use Permit as detailed in Chapter 210.

## Chapter 680 INTERCHANGE OVERLAY ZONE

- 680.01 Purpose**
- 680.02 Intent**
- 680.03 Applicability**
- 680.04 Uses**
- 680.05 Development Standards**
- 680.06 Traffic Impact Analysis**
- 680.07 Agency Coordination**

**680.01 Purpose.** The purpose of this chapter is to provide the rules, regulations and standards governing permissible uses in the Interchange Overlay Zone.

**680.02 Intent.** The Interchange Overlay Zone implements the “*I-84 Exits 302 and 306 Interchange Area Management Plan*” (IAMP) and is intended to maintain interchange capacity and protect interchange functions. The County coordinates development review with Baker City and ODOT, and assists ODOT in monitoring development, to protect interchange functions, as follows:

- A. The primary function of the I-84 Exit 302 interchange is to provide truck and vehicular access to northern Baker City and OR 86, including the industrial lands along Best Frontage Road and at the Baker City Airport. A secondary function is to provide an alternative access to central Baker City and to US 30, as well as the National Historic Oregon Trail Interpretive Center and the Hells Canyon Scenic Byway.
- B. The primary function of I-84 Exit 306 interchange is to provide access to downtown and southern Baker City, particularly for individuals coming from the east. A secondary function is to provide access to various regional visitor attractions, such as Phillips Reservoir and historic mining town, the City of Sumpter.

**680.03 Applicability.** Any land use action within the Interchange Overlay Zone is subject to the regulations herein described and those of the underlying zone. If any conflicts in regulation or procedure occur between the zones, the provisions of the underlying zone shall govern.

**680.04 Uses.** Permitted and conditional uses shall be as defined in the underlying base zone.

**680.05 Development Standards.** Development standards shall be as provided in the underlying base zone, except as follows. The intent of the following provision is to maintain highway safety and operations while providing for reasonable use of private property:

- A. Approach spacing shall be consistent with the IAMP Access Management Plans (AMPs) for Exits 302 and 306.
- B. Private approaches shall be consolidated and improved as properties redevelop, consistent with the AMPs. For purposes of this Section, redevelopment is considered to be a change in land use of a property or an increase in the size of a development of greater than 50%.



- C. Where a new approach to OR 86 or Cedar Street is proposed in the vicinity of the Exit 302 interchange and it cannot be located pursuant to the ¼-mile spacing standard, it shall be located as far from the interchange as practically possible.
- D. Where a new approach to US 30 is proposed in the vicinity of the Exit 306 interchange and it cannot be located outside the ¼-mile spacing standard, it shall be located as far from the interchange as practically possible.
- E. Development applicants shall be required to mitigate the impacts attributed to development, including but not limited to dedicating right-of-way and making needed access and transportation improvements consistent with the IAMP.
- F. Where it is not feasible to meet ODOT access spacing standards or to make planned transportation improvements due to property boundary constraints, property redevelopment shall be required to move in the direction of conformity over time, pursuant to ODOT standards.
- G. Where a land use application or change of use relies on a private connection to a state highway, it shall meet the requirements of OAR 734-051-3020 - *Change of Use of a Private Connection*. An application for state highway approach is required for a change of use when:
  1. The number of peak hour trips increases by fifty (50) trips or more from that of the property's prior use and the increase represents a twenty (20) percent or greater increase in the number of peak hour trips from that of the property's prior use;
  2. The average daily trips increases by five hundred (500) trips or more from that of the property's prior use and the increase represents a twenty (20) percent or greater increase in the average daily trips from that of the property's prior use;
  3. The daily use of a connection increases by ten (10) or more vehicles with a gross vehicle weight rating of twenty-six thousand (26,000) pounds or greater;
  4. ODOT demonstrates that safety or operational concerns related to the connection are occurring as identified in OAR 734-051-4020(3);
  5. The existing connection to the state highway does not meet ODOT's stopping sight distance standards.

## **680.06 Traffic Impact Analysis**

- A. Development applications located within either the Exit 302 or Exit 306 Interchange Management Areas that meet the criteria of Section 320.07 shall be accompanied by a Transportation Impact Analysis (TIA) that demonstrates the level of impact of the proposed development on the interchange and surrounding street system, and how the impact will be mitigated pursuant to ODOT and County standards.
- B. Notwithstanding the criteria of Section 320.07, a Transportation Impact Analysis shall be required where a proposed change relying on a private connection to a state highway meets the ODOT requirements for a traffic impact study contained in OAR 734-051-3030(4).

- C. The determination of impact or effect, and the scope of the TIA, shall be reviewed with Baker City and ODOT, and the developer shall be required to mitigate impacts attributable to the project consistent with the standards of the applicable roadway authority.

**680.07 Agency Coordination.** Land use and development applications shall be coordinated with reviewing agencies as follows:

- A. The County shall coordinate with the Oregon Department of Transportation (ODOT) on TIA requirements when the site of the proposal is adjacent to or otherwise affects a State roadway.
- B. The County shall provide written notification to ODOT once a land use application within the IAMP Management Area is deemed complete.
- C. ODOT shall have at least 20 days, measured from the date notice to agencies was mailed, to provide written comments to the County. If ODOT does not provide written comments during this 20-day period, the County staff report may be issued without consideration of ODOT comments.
- D. The County may invite ODOT and the City to participate in a pre-application review for applications within an Interchange Management Area Plan (IAMP) Management Area or within a ¼-mile of any ODOT roadway. Notice of actions requiring a public hearing shall be provided to ODOT at least 20 days prior to the date of the hearing.

**Chapter 685**  
**MINING ACTIVITY BUFFER OVERLAY ZONE (MABOZ)**

- 685.01 Purpose**
- 685.02 Applicability**
- 685.03 Purpose of the Mining Activity Buffer Overlay**
- 685.04 Mining Activity Buffer Overlay Zone Requirements**

**685.01 Purpose.** The purpose of this chapter is to specify the applicability and limitations of the Mining Activity Buffer Overlay Zone.

**685.02 Applicability.** The requirements and standards of this Section shall apply to any property within the Mining Activity Buffer Overlay Zone, in addition to those specified in the underlying zone(s). In the event of a conflict between the requirements and standards of this Section and those of the underlying zones, the provisions of this Section shall govern.

**685.03 Description and Purpose of the Mining Activity Buffer Overlay.**

- A. The Mining Activity Buffer Overlay Zone will mitigate identified impacts relating to a plan amendment for a specific mining site.
- B. The purpose of the Mining Activity Buffer Overlay Zone is to fully disclose the presence of the significant mineral resource prior to residential development in order to protect the resource site from potential complaints from property owners of nearby residentially-zoned property.

**685.04 Mining Activity Buffer Overlay Zone Requirements.** When the Mining Activity Buffer Overlay Zone is applied, the uses permitted in the underlying zone shall remain unchanged. Any change in those uses and general activities must be made through the plan/land use regulation amendment process outlined in Chapter 260.

- A. Surrounding Properties. The following measures shall be taken to reduce the impact of surrounding residential uses on the mining operation:
  - 1. Acknowledgement of Mining Activity. All future residential development of properties located within the identified impact area shall commence only after an Acknowledgement of Mining Activity has been signed by the property owner, is on file with the Baker County Planning Department and has been recorded in the Baker County Clerk's Office.
- B. Mine Site. The following measures shall be taken to reduce the impact of the mining operation on surrounding residential uses:
  - 1. Site Design Review. Approval of a Site Design Review application shall be required prior to mining activity on the Mine Site property. This application shall implement review of standards adopted to mitigate conflicting uses identified in the Comprehensive Plan. The following standards shall be met:

- a. A 50-foot setback from the mining site and mineral processing, as defined by this Ordinance, to all residentially-zoned properties;
  - b. A 25-foot setback from the mining site and mineral processing to all federally-managed lands; and
  - c. A 25-foot setback from the mining site and mineral processing to all waterways and wetlands.
2. Operation and Reclamation Plan. An Operation and Reclamation Plan shall be required and the following standards shall be met:
- a. Hours of operation shall be from 8am to dusk;
  - b. DEQ permits relating to air and water quality shall be obtained, as required;
  - c. Grading, benching, reclamation, re-vegetation and seeding shall be required to prevent erosion;
  - d. Clear access shall be required for adequate fire apparatus access; and
  - e. Weed management shall be coordinated with the Baker County Weedmaster.
3. Maintenance of All Required Permits. In order to mitigate conflicts, all applicable permits shall be required to be obtained and maintained.

**Chapter 690**  
**MINING IMPACT MITIGATION OVERLAY ZONE (MIMOZ)**

- 690.01 Purpose**
- 690.02 Applicability**
- 690.03 Description and Purpose of the Mining Impact Mitigation Overlay**
- 690.04 Mining Impact Mitigation Overlay Zone Requirements**

**690.01 Purpose.** The purpose of this chapter is to specify the applicability and limitations of the Mining Impact Mitigation Overlay Zone.

**690.02 Applicability.** The requirements and standards of this Section shall apply to any property within the Mining Impact Mitigation Overlay Zone, in addition to those standards specified in the underlying zone(s). In the event of a conflict between the requirements and standards of this Section and those of the underlying zones, the provisions of this Section shall govern.

**690.03 Description and Purpose of the Mining Impact Mitigation Overlay Zone.** The Mining Impact Mitigation Overlay Zone will mitigate identified impacts from potential mining activity that could occur on property zoned Mineral Extraction abutting property zoned Rural Residential.

**690.04 Mining Impact Mitigation Overlay Zone Requirements.** When the Mining Impact Mitigation Overlay Zone is applied, the uses permitted in the underlying zone shall remain unchanged. Any change in those uses and general activities must be made through the plan/land use regulation amendment process outlined in Chapter 260.

- A. Mining Activity. The following measures shall be taken to reduce the impact of the mining operation on surrounding residential uses:
  - 1. **Site Design Review.** Approval of a Site Design Review application shall be required prior to mining activity on the Mine Site property. This application shall implement review of the following standards:
    - a. All mining activity shall maintain a minimum setback of 25-feet from the north and west property lines;
    - b. Mineral processing is limited to 1500 cubic yards per year;
    - c. No mining activity shall take place until there is an approved Road Agreement between the current property owner and the Baker County Road Department on file with the Planning Department;
    - d. Mining activity shall only take place during the time between 30 minutes before sunrise and 30 minutes after sunset; and
    - e. No mining activity shall take place until there is an approved Weed Abatement Plan between the current property owner and the Baker County Weed Department on file with the Planning Department.
  - 2. **Operation and Reclamation Plan.** An Operation and Reclamation Plan shall be required to be on file with the Planning Department.

3. Maintenance of All Required Permits. In order to mitigate conflicts, all applicable permits shall be required to be obtained and maintained.

**Chapter 695**  
**TOURIST COMMERCIAL LIMITED USE OVERLAY ZONE (TCLUOZ)**

- 695.01 Purpose**
- 695.02 Applicability**
- 695.03 Permits Required**

**695.01 Purpose.** The purpose of the Tourist Commercial Limited Use Overlay Zone is to define the uses allowed on a property zoned TCLUO for which an exception to Goal IV has been taken. The uses included in the zone are only those justified by a reasons exception to Goal IV.

**695.02 Applicability.** The requirements and standards of this Section shall apply to any property within the Tourist Commercial Limited Use Overlay Zone, in addition to those standards specified in the underlying zone(s). In the event of a conflict between the requirements and standards of this Section and those of the underlying zones, the provisions of this Section shall govern.

**695.03 Permits Required.**

A. **Uses Permitted Through a Type II Procedure.** In the Tourist Commercial Limited Use Overlay Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.06:

1. Alteration, restoration, or replacement of a lawfully established dwelling subject to the replacement standards in the Timber Grazing (TG) zone:
  - a. The dwelling has:
    - i. intact exterior walls and roof structure;
    - ii. indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - iii. interior wiring for lights; and
    - iv. a heating system.
  - b. In the case of replacement, the dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling.
  - c. The replacement dwelling may be sited on any part of the same lot or parcel.
  - d. Replacement dwellings applications may be accepted for up to 1 year after the loss of a dwelling due to fire or natural disasters.

B. **Uses Permitted Through a Type III Procedure.** In the Tourist Commercial Limited Use Overlay Zone, the following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.07:

1. Travel Trailer Parks and RV Parks, as defined by the Baker County Zoning Ordinance, limited to a maximum of 16 sites providing water, septic, and/or electrical connection (referred to a full service).
2. Commercial Dwelling, including space for retail sale of items incidental to overnight stays at the park. Retail sales are exclusively limited to overnight guests of the park.

- C. Limitations on Uses. In the TCLUO Zone, a site plan which describes the proposed use for the property shall be submitted to the Planning Department. Particular attention shall be given to providing septic service, parking and access.
1. RV sites shall be sited north of Antone Creek.
  2. The maximum time for any guest to occupy the campground is 30 days per six-month period.
  3. One commercial dwelling is allowed on the parcel.
- D. Minimum Parcel size. The minimum parcel size is subject to the requirements of Chapter 420.05 Timber Grazing – Minimum Parcel Size.
- E. Development Review. Type III Site Design Review is required prior to receiving a Zoning Clearance subject to Section 310.03.
1. Each RV site, dwelling or commercial dwelling shall be served by a driveway meeting the standards of Section 320.05.008.
  2. A sewer or septic system and water shall adequately serve the use, or provisions have been made to meet these requirements according to Department of Environmental Quality, Health Service Standards, and the standards of any other applicable state agency.
  3. Pedestrian crossing and congestion signs, as determined necessary by the Baker County Road Department, shall be in place prior to development commencing north Anthony Lakes Highway.
  4. To ensure that forest operations and accepted farming practices will not be curtailed or impeded, a nonexclusive Acknowledgement of Farm and Forest Practices shall be filed with the County Clerk prior to development authorization for a use specified in the TCLUO Zone. Such Acknowledgement shall specify that owners of farm and forest enterprises have the right to conduct legal farm and forest practices, and the owner of the subject property, as well as subsequent owners, waive all rights to object to legal farm and forest activities.
  5. Prior to development, property boundary signs shall be located on the perimeter of the property, clearly identifying property lines to discourage trespass. The signs shall be posted at all times the park is in use.
  6. Prior to development of an RV park, the applicant shall work with ODFW to develop a plan for siting the RV park in a way that minimizes impacts to big game, and mitigates for the loss of big game winter range. The plan shall be signed by the property owners, or authorized representative, and ODFW. The plan shall be submitted to the Planning Department and adhered to. If the property owner and ODFW cannot reach agreement, the matter can be brought before the Planning Commission for a final decision on requirements.
- F. Fire Safety Measures.
1. All development must meet the Oregon Department of Forestry Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads, 1991.
    - a. All structures must be constructed with metal roofing.
    - b. Each development site or RV site is required to have a gravel pad and an additional 30 feet free of combustibles. All trees within 50 feet shall be limbed.



- c. All RVs must be equipped with smoke alarms and fire extinguishers (2.5 lbs. A, B, C) meeting all federal, state, and local requirements for lodging facilities. Heating sources will be propane or electric and will meet all local code and UL related standards.
  - d. A frost-free style hydrant is required at each full-service RV site.
  - e. A 1,000-gallon water storage tank, refillable by the on-site well, is required to be sited on the north side of Anthony Lakes Highway and shall be located at a higher contour than the RV sites to facilitate a gravity-fed system.
  - f. A 300 gallon (or greater) mobile water system is required, with a minimum of 40 psi pressure pump, hose of  $\frac{3}{4}$  inch – 1-inch diameter no less than 200 feet in length. The hose must provide 20 gallons per minute when pumping through 50 feet of hose. The mobile water system must be operational on site between March 1<sup>st</sup> and October 1<sup>st</sup>.
  - g. The mobile water system vehicle must include the following fire hand tools: a shovel, a Pulaski, and a hazel hoe.
  - h. All fire pits must be located 15 feet from structures (RVs and buildings), and only located in graveled areas. All fires must follow Oregon Department of Forestry requirements.
  - i. Two on-site ponds, south of Antone Creek, shall be constructed and shall be required for water retention. Access to these ponds must remain available during fire season and vehicles must be able to draft from Anthony Lakes Highway.
  - j. Each RV site and the commercial dwelling must be identified on a site map which shall be posted at all ingress and egress points on the property. Additional directional signage must be provided at splits in internal roadways.
  - k. A fire season use restriction sign must be displayed at the commercial dwelling.
  - l. Fuel reduction measures must be in place as determined by the Baker County Fire Coordinator.
- G. If the use is not established within four years, the zone shall become void and revert from the Limited Use Tourist Commercial Overlay back to Timber-Grazing. Establishment will be evaluated based on whether the development has been started and significant construction has occurred. Two-year extensions may be granted by the Planning Commission for good cause.

**Chapter 710**  
**HISTORIC, CULTURAL, AND NATURAL RESOURCES PROTECTION**

- 710.01 Purpose**
- 710.02 Applicability**
- 710.03 Permits Required**

**710.01 Purpose.** The purpose of this Chapter is to detail the standards and procedures for protecting historic/cultural and natural resources.

**710.02 Applicability.** This Section shall not apply to sites designated as 3A or 3B sites, pursuant to OAR 660-016-0010(1) and OAR 660-016-0010(2), respectively. Major alteration or destruction of a Natural Area designated as 2A or 3C shall first require an ESEE (economic, social, environmental and energy) analysis, justification, and subsequent Plan Amendment application.

**710.03 Permits Required**

- A. A permit shall be required to destroy or make major alteration to a historic/cultural/natural site or structure inventoried as significant in the County Comprehensive Plan. Upon receipt of an application for said permit, the Planning Department shall institute a 30-day hold. During that time various actions will be initiated by the County depending upon the nature of the threatened resource. All of the inventoried natural sites, historic sites and the cultural sites identified with one, two or three stars will be subject to a public hearing. Notice of the proposed change and public hearing will be provided to the general public, the State Historic Preservation Office, the State Natural Heritage Advisory Council, the State Department of Fish and Wildlife and/or affected local historical, cultural, or governmental entities. The opportunity to educate, persuade, pay for, and/or require the preservation of a significant resource will be provided by the County. At the hearing before the Planning Commission a review will be conducted to determine:
  - 1. If the change will destroy the integrity of the resource.
  - 2. If the proposal can be modified to eliminate its destructive aspects.
  - 3. If any agency or individual is willing to compensate the resource owner for the protection of the resource.
  - 4. If the resource can be moved to another location.
- B. If, after this review, it is determined by the County that the integrity of a significant historic/cultural structure or townsite or a natural area resource is threatened, the following criteria will be applied to decide whether to allow, allow with conditions, or disallow the proposed change:
  - 1. For significant historic/cultural structures and townsites.
    - a. The historic/cultural structure or townsite constitutes a hazard to the safety of the public occupants and cannot reasonably be repaired; or
    - b. The retention of the historic/cultural structure or townsite would cause financial hardship to the owner which is not offset by public interest in the structure's/townsite's preservation; or

- c. The improvement project is of substantial benefit to the County and cannot be reasonably located elsewhere, and overrides the public's interest in the preservation of the historic/cultural structure or townsite; or
  - d. Major exterior alteration shall, to the extent possible, be consistent with the historic/cultural character of the structure.
2. For significant natural areas.
    - a. The Existence of a Site Report. The site's relative significance is indicated by the existence of a site report indicating a field survey with one or more elements verified.
    - b. Number of Elements. The site is elevated to a higher priority if it contains a diversity of natural elements.
    - c. Past Use of Land. The degree to which human activities have already impacted an area is a significant factor in determining the value of protecting the resource.
    - d. Abundance and Quality of the Same Resource Elsewhere on the County's Inventory. In reviewing such comparative information, the County will be able to make its decision knowing the relative significance of the resource in question.
    - e. Financial Impact. A determination that the retention of the natural area would cause financial hardship to the owner not offset by public interest in the site's preservation would be a determining factor in the County's decision.
    - f. Public Benefit from the Proposed Change. A finding that the change is of substantial benefit to the County and cannot be accommodated feasibly elsewhere on the applicant's property would be a significant factor in the County's decision.
  3. For Resources on Federally Managed Lands. The findings and conclusions of Baker County relative to a proposed alteration or demolition of a significant cultural/ historic/natural site/structure shall be forwarded to the appropriate federal agency as a recommendation.
  4. For Resources Not Inventoried or Designated as 1B. For resources of unknown significance or resources not on the inventory, a local review will be conducted by BLM and USFS personnel, Oregon Department of Fish and Wildlife, State and/or college historians, and local museum and historical society members to evaluate the resource's comparative worth and make a recommendation as to whether a full public hearing is warranted.

**Chapter 720**  
**NON-CONFORMING USES**

**720.01 Purpose**

**720.02 General Provisions**

**720.01 Purpose.** The purpose of this Chapter is to outline the regulations pertaining to non-conforming uses.

**720.02 General Provisions**

- A. Continuation. Subject to the provisions of this Chapter a non-conforming use or structure may be continued but may not be altered or extended. The extension of a non-conforming use to a portion of a structure which was arranged or designed for the non-conforming use at the time of passage of this Ordinance is not an enlargement or expansion of non-conforming use. A non-conforming structure which conforms with respect to use may be altered later or extended if the alteration or extension does not cause the structure to deviate further from the standards of this Ordinance.
- B. Discontinuance. If a non-conforming use is discontinued for a period of one year, further use of the property shall conform to this Ordinance.
- C. Replacement. If a non-conforming use is replaced by another use, the new use shall conform to this Ordinance.
- D. Restoration. If a non-conforming structure or a structure containing a non-conforming use is destroyed by any cause to an extent exceeding 80% of its fair market value as indicated by the records of the County Assessor and is not returned to use and in actual operating condition within one year from the date of destruction, a future structure or use on the site shall conform to this Ordinance.
- E. Vested Rights. Nothing contained in this Ordinance shall require any change in the plans, construction, alteration, or designed use of a structure for which a building permit has been issued and construction has commenced prior to the adoption of this Ordinance.

## Chapter 730 SIGNS

- 730.01 Purpose
- 730.02 Applicability
- 730.03 Process Type
- 730.04 Compliance with State Regulations
- 730.05 Exempt Signs
- 730.06 Prohibited Signs
- 730.07 General Regulations
- 730.08 Maintenance
- 730.09 Non-Conforming Signs
- 730.10 Enforcement

**730.01 Purpose.** The purpose of this Chapter is to provide a safe, consistent, equitable and legal system for signage. The regulations of factors such as size and location will encourage the communication of information and orientation for both visitors and citizens; provide for the effective identification and advertisement of business establishments; eliminate visual blight; and provide standards to safeguard life, health, property and public welfare.

**730.02 Applicability.** The following regulations shall apply to any sign erected, moved, or altered after adoption of this Ordinance. Official traffic control signs and instruments of the state, County, municipality, or political subdivision of the state, are exempt from all provisions of this Ordinance.

**730.03 Process Type.** New signs are subject to a Type I review when not concurrent with another application. Signs that are submitted in conjunction with another application can be processed as a consolidated review.

### **730.04 Compliance with State Regulations**

- A. All signs shall be in compliance with Oregon Administrative Rules and Oregon Revised Statutes, including the provisions of ORS 377, as applicable.
- B. No sign permitted by ORS 377 shall be erected within 100 feet of a residential dwelling without written consent of the owner.

**730.05 Exempt Signs.** The following signs shall be allowed without a sign permit and shall not be included in the determination of the type, number, or area of permanent signs allowed within a zone, provided such signs comply with the regulations in this Section, if any.

- A. Government/Regulatory signs erected or required by the City of Baker City, Baker County, the State of Oregon, or any other government agency including traffic, utility, safety, railroad crossing and identification signs for public facilities.
- B. Signs legally posted within the right-of-way.

C. Legal notices.

D. Temporary signs that do not require a building permit, have a sign area of 24ft<sup>2</sup> or less and are displayed for a period of 4 months or less in a 12-month period, excepting temporary electronic reader-board signs. Temporary electronic reader-board signs that do not exceed a sign area of 65ft<sup>2</sup> and are displayed for a period of seven (7) days or less within a six (6) month period, per parcel. All temporary signs shall be removed within the applicable timeframe set forth by this chapter.

E. Address signs, with or without illumination.

**730.06 Prohibited Signs.** The following signs are unlawful and prohibited in any zone:

A. Based on Location.

1. Signs erected without the permission of the property owner, with the exception of those authorized or required by local, state, or federal government.
2. No sign shall be placed in such a position as to endanger pedestrians, bicyclists, or traffic on a street by obscuring the view or by interfering with official street signs or signals by virtue of position or color.
3. No sign or portion thereof shall extend beyond any property line of the premises on which such sign is located, unless specifically allowed.
4. No sign shall be placed nor extend into the public right-of-way, unless specifically allowed by the governing jurisdiction.
5. No sign shall be permitted that interferes with any surface or underground utility or communication lines and equipment.

B. Based on Safety.

1. Interactive signs or mechanical movement signs, including revolving signs.
2. Signs that because of color, wording, design, size, shape, or illumination resemble, obstruct, or conflict with any traffic-control device or with the safe and efficient flow of traffic, or private signs which appear to control or direct traffic, parking, or public use or access inconsistent with city regulations.
3. Signs which prevent free ingress or egress from any door, window, fire escape, or that prevent free access from one part of a roof to any other part. No sign other than a safety sign shall be attached to a standpipe or fire escape.
4. Unsafe signs, as determined by the Building Official.

C. Based on Visual Character.

1. Animated or flashing signs, signs which contain beacon or strobe lights, reflective or mirror signs, or signs which flash text or graphics.

- 2. Signs which emit smoke, visible vapors, particulate matter, sound, odor or contain open flames.

**730.07 General Regulations**

- A. No sign shall be placed as to interfere with visibility or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection.
- B. No sign shall cause glare, distraction, or other driving hazards within a street or road right-of-way.
- C. No sign shall be moving, revolving or flashing and shall not be located so as to detract from a motorists' vision except for emergency purposes.
- D. Light from a sign shall be directed away from a residential use or zone.

<b>Table 720-1 - Sign Requirements by Zone</b>	
<b>ZONE</b>	<b>SIZE</b>
Residential Zones <i>(RR-2 &amp; RR-5)</i>	1. Signs shall not exceed a total of 32 square feet of display surface, per side
Resource Zones <i>(EFU, TG, ME &amp; SM)</i>	2. Signs shall not exceed a total of 48 square feet of display surface, per side
Commercial & Industrial Zones <i>(RSA, RC, RI, TG, GC, CI &amp; I)</i>	3. Signs shall not exceed a total of 48 square feet of display surface, per side

**730.08 Maintenance.** Any signage that has been damaged to such an extent that they may post a hazard to passersby shall be repaired or removed immediately.

**730.09 Non-Conforming Signs**

- A. Any non-conforming sign in existence at the date of adoption of this Ordinance is permitted to remain and any non-conforming sign that is damaged or destroyed may be replaced or restored to its original design, so long as the cost of the repair is less than 60 percent of the replacement or restoration cost.
- B. No sign shall be altered or enlarged in such a way that increases its non-conformity.

**730.10 Enforcement.** Any person who erects or otherwise displays a sign for which a sign permit or approval is required under this Ordinance without first obtaining a permit has committed an infraction and is subject to the provisions of Chapter 140 - *Enforcement*.

**Chapter 740**  
**WIRELESS COMMUNICATION FACILITIES**

- 740.01 Purpose**
- 740.02 Applicability**
- 740.03 Uses**
- 740.04 Application Requirements**
- 740.05 Review Standards**
- 740.06 Adjustments**
- 740.07 Abandonment**

**740.01 Purpose.** The purpose of this Chapter is to bring this Ordinance into compliance with the Federal Communications Act of 1996; to enhance the provision of communication services to County residents, businesses and visitors; to protect the County from the potential adverse effects of wireless communication facilities development in all zones and near historic sites; to encourage co-location of facilities to minimize the number of new facilities; and to ensure structural safety.

**740.02 Applicability.** All wireless communication facilities are subject to the standards of this Chapter, with the following exceptions:

- A. Existing wireless communication facilities. Co-location on existing wireless communication facilities is subject to the provisions of this Chapter.
- B. Amateur (Ham) radio towers, citizen band transmitters and antennas.

**740.03 Uses**

- A. Uses Permitted Through a Type I Procedure. The following uses may be established subject to the Type I review process identified in Section 115.05:
  - 1. Co-location of antennas on a previously approved wireless communication facility, provided:
    - a. No increase in the height of the existing wireless communication support structure is proposed;
    - b. All aspects of the co-location improvements are located within the previously approved fenced (lease) area;
    - c. The co-location does not involve the removal of any previously approved landscaping/buffering.
  - 2. Use of existing utility poles (electric, cable, telephone, etc.), within a public right-of-way, for the placement of wireless communication facilities, provided the following requirements are satisfied:
    - a. All required permits are applied for and granted;
    - b. If it is necessary to replace the existing pole with a pole that is suitable for wireless communication, the new pole shall be no taller than the pole that is being replaced.



B. Uses Permitted Through a Type III Procedure. The following uses may be established subject to the Type III review process identified in Section 115.07. Conditional Use permits will be issued to the facility operator and the property owner jointly. Uses must demonstrate compliance with Sections 740.04 and 740.05 and Chapters 115 and 210:

1. **New wireless communication facilities.** All proposals for new wireless communication facilities must be accompanied by a statement from a qualified independent third party, that the necessary service cannot be provided by co-location for one or more of the following reasons:
  - a. No existing towers, or support structures, or approved but not yet constructed towers, are located within the geographic area required meeting the applicant's engineering requirements.
  - b. Existing towers or support structures are not of sufficient height to meet the applicant's engineering requirements.
  - c. Existing towers or support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing tower or support structure, or the existing antenna would cause interference with the applicant's proposed antenna.
  - e. The applicant demonstrates that there are other limiting factors that render existing towers and support structures unsuitable.
2. Any and all modifications or additions that do not meet the definitions or criteria outlined under a Type I procedure.

#### **740.04 Application Requirements**

A. Uses authorized under Section 740.03(A) shall submit:

1. Planning Department land use application form;
2. Information demonstrating compliance with Section 740.03(A).

B. Uses proposed under Section 740.03(B) shall submit:

1. Planning Department land use application form;
2. A site plan, drawn to scale, that includes:
  - a. Existing and proposed improvements;
  - b. Adjacent roads;
  - c. Parking, circulation and access;
  - d. Areas of existing and proposed vegetation to be added, retained, replaced, or removed; and

- e. Setbacks from property lines of all existing and proposed structures. If an adjustment is requested, the plan must identify the distance from the wireless communication tower to residences and other structures offsite that are within a distance not less than the height of the tower from the proposed location of the tower.
3. A vicinity map showing adjacent properties, land uses, zoning and roadways within 500 feet of the proposed antenna site;
4. Elevations showing antennas, towers, equipment shelters, area enclosures and other improvements related to the facility;
5. An accurate graphic (map) inventory of existing wireless communication facilities within one mile of the property under consideration; and
6. A map and description of two alternative locations.
7. Statement addressing Conditional Use Standards listed under Section 740.05(B) and Chapter 210.
8. Preliminary Construction, Dismantling and Reclamation Plan. A preliminary construction, dismantling and reclamation plan in accordance with Section 770.02.
9. Financial Assurances. An explanation of how financial assurances will be provided for dismantling and reclamation, in accordance with Section 770.04.

#### **740.05 Review Standards**

##### **A. Uses authorized under Section 740.03(A):**

1. Demonstration of compliance with Section 740.03(A).
2. Demonstration of compliance with all criteria included in Section 740.04(A).

##### **B. Uses proposed under Section 740.03(B):**

1. The Planning Commission may require placement of the tower in an alternate location on the tract. In order to avoid relocating the proposed facility, the applicant must demonstrate that the necessary service cannot reasonably be provided from an alternate location.
2. All new wireless communication towers shall be designed and built to accommodate co-location or additional loading. For the purposes of this provision, this means that the tower shall be designed specifically to accommodate co-location, with towers constructed to the latest industry design standards. Applicant shall submit to the Planning Director documentation of up-to-date tower construction standards.
3. Wireless communication towers and equipment shelters shall be painted or coated in a manner that blends with the surrounding area. The finished coloring shall result in a non-reflective surface that makes the tower and equipment shelter as visually unobtrusive as possible, unless state or

federal regulations require different colors. Colors will be determined through the Design Review process.

4. In Rural Residential Zones, Scenic Byways designated by the Oregon State Highway Commission, and historic sites inventoried in the Baker County Comprehensive Land Use Plan, the Planning Commission may require as necessary a technology through which a wireless communication facility is designed to resemble an object present in the natural environment or to resemble a building typically and customarily found in the area.
5. No lighting shall be permitted on a tower under normal operating conditions, except as required by the Federal Aviation Administration, Oregon Department of Aviation, or as a condition of approval by the Planning Commission. If lighting is required, the most technologically advanced devices, such as radar-activated lighting systems, obstruction lighting systems or obstacle collision avoidance systems, shall be used to eliminate night lighting under normal operating conditions. If lighting is required, the light shall be shielded or deflected from the ground and other properties, to the extent practicable.
6. The wireless communication facility shall be located within an area that is enclosed on all sides. The enclosure must be at least six feet tall and sight obscuring.
7. Noise generated by the wireless communication facility shall not exceed the levels established by the Oregon Department of Environmental Quality (DEQ). If properties adjacent to the property upon which the wireless communication facility is proposed have a lower DEQ standard than the proposed site, the lower standard shall be applicable.
8. Maintenance of the lease area is the responsibility of the owner/operator of the wireless communication facility. The owner/operator shall prevent the facility from entering into a state of disrepair due to negligence, vandalism, natural hazard, or any other source. This requirement places the responsibility for maintenance on the owner/operator.
9. The Preliminary Construction, Dismantling and Reclamation Plan meets the standards set forth in Section 770.02. A Final Dismantling and Reclamation Plan that meets the standards set forth in Section 770.03 will be required prior to beginning construction, as a condition of approval.
10. Financial assurances, in accordance with Section 770.04, will be provided prior to beginning construction as a condition of approval.

**740.06 Adjustments.** Adjustments to the standards of this Section may be approved by the Planning Commission. The Planning Commission may grant an adjustment under either of the following circumstances:

- A. When a gap in the applicant's service exists and that gap can only be alleviated through new tower construction. For new tower construction the applicant must demonstrate the following:
  1. A gap in coverage or capacity exists in the wireless communication provider's service network that results in network users being regularly unable to connect with the provider's network, or maintain connection;

2. The proposed facility will fill the existing service gap. The gap would be filled if the proposed facility would substantially reduce the frequency with which users of the network are unable to connect, or maintain connection, with the provider's network; and
  3. The gap cannot be filled through co-location on existing facilities, or establishment of facilities that are consistent with the standards of this Section on properties other than the proposed site or on the proposed site in a manner which does not require an adjustment under this Section.
- B. When the proposed tower construction would utilize existing site characteristics to minimize demonstrated or potential impacts on the use of surrounding properties. Applicants for new tower construction under this provision must demonstrate that construction will result in a lower level of impact on surrounding properties than would be generated if new tower construction were not granted. In considering the requested, the Planning Commission may consider the following:
1. Visual impacts;
  2. Impacts on view;
  3. Impacts on property values; and
  4. Other impacts that the Planning Commission finds can be mitigated by an adjustment.
- C. Requests for new tower construction under this Section shall be considered part of the application to establish a wireless communication facility, not a separate application. All applications that propose new tower construction must be reviewed by the Planning Commission, pursuant to Chapter 210.

#### **740.07 Abandonment**

- A. Determination of abandonment will be made by the Planning Director, who shall have the right to demand documentation from the facility owner regarding the tower or antenna use.
- B. Upon determination of abandonment, the facility owner shall have 1 year to:
1. Reuse the facility or transfer the facility to another owner who will reuse it within 1 year of the determination of abandonment; or
  2. Remove the facility.
- C. If the facility is not reused within 1 year of the determination of abandonment, County authorization for the use shall expire. Once authorization for the use has expired, the facility operator shall remove the facility from the property within 120 calendar days. If the facility operator does not remove the facility within 120 calendar days, the County may remove the facility at the expense of the facility operator, or, in the alternative, at the property owner's expense.

**Chapter 750**  
**WIND POWER GENERATION FACILITIES**

- 750.01 Purpose**
- 750.02 Applicability**
- 750.03 Uses**
- 750.04 Application Requirements**
- 750.05 Review Standards**
- 750.06 Adjustments**
- 750.07 Abandonment**
- 750.08 Signs**

**750.01 Purpose.** The purpose of this chapter is to clarify rules governing the siting and development of *wind power generation facilities*.

A. As used in this chapter “High-value farmland” means:

1. High-value farmland as described in ORS 215.710 is land in an exclusive farm use zone or a mixed farm and forest zone, except that the dates specified in ORS 215.710(2), (4) and (6) are December 6, 2007.
2. Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June 28, 2007, is:
  - a. Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;
  - b. Within the boundaries of a district, as defined in ORS 540.505; or
  - c. Within the boundaries of a diking district formed under ORS chapter 551.
3. Land that contains not less than five acres planted in wine grapes.
4. Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent, and that is located within the portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208 that is within the State of Oregon.

**750.02 Applicability.** This ordinance applies to *wind power generation facilities* installed and/or constructed after the effective date of the ordinance. *Wind power generation facilities* constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance. Any upgrades, modifications, or changes that materially alter the size or placement of an existing *wind power generation facilities* shall comply with the provisions of this ordinance.

- A. *Residential Wind Power Generation Facilities* may be located in any zone. In residential zones listed under Chapter 510, only one *wind turbine generator* per residence (excluding temporary dwellings) is allowed.
- B. *Small-Scale and Commercial Wind Power Generation Facilities* may be located on property zoned EFU, TG, or I.

- C. No portion of a *Commercial or Small-Scale Wind Power Generation Facility* shall be within 2 miles of:
  - 1. Properties designated on the Comprehensive Land Use Plan Map as residential [those zoned Rural Residential (RR-5) or Recreation Residential (RR-2) only], or
  - 2. The city limits of an incorporated city, unless a resolution specifically supporting placement of a *wind power generation facility* within 2 miles of the city limits has been passed by the city council of that city.
- D. Furthermore, no portion of a *wind turbine generator* that is part of a *Commercial Wind Power Generation Facility* shall be located within 2 miles of an existing dwelling unless an Affidavit of Consent has been signed by all property owners with an existing dwelling within 2 miles of the *wind turbine generator*. This Affidavit of Consent shall be recorded with the deed records in the Baker County Clerk's Office.
- E. All *wind turbine generators*, excepting *Residential Wind Power Generation Facilities*, shall have a setback of 1.5 times the *total height* of the *wind turbine generator* from all public roads and utility lines not exclusive to the *wind power generation facility*.
- F. When the potential exists for adjacent landowners to develop their commercial wind resource, the setback from the property line shall be a minimum of ½ mile in the direction of the prevailing wind, unless a variance is obtained. This shall be to control the effect of *wind shadow* on the adjacent landowner's right to develop.

### 750.03 Uses

#### A. Types of Procedures

- 1. *Residential Wind Power Generation Facilities* may be permitted when authorized in accordance with the Type I procedure provisions of Chapter 115.05.
- 2. *Small-Scale Wind Power Generation Facilities* may be permitted when authorized in accordance with the Type II procedure provisions of Chapter 115.06, except when sited upon high-value farmland, in which case the *Small-Scale Wind Power Generation Facility* shall be authorized in accordance with the Type III procedure provisions of Chapter 115.07.
- 3. *Commercial Wind Power Generation Facilities* may be permitted when authorized through a Conditional Use Permit in accordance with the Type III procedure provisions of Chapter 115.07.

- B. Permit Expiration Dates and Extensions. *Wind Power Generation Facilities* shall be subject to permit periods and extension requirements set forth in Chapter 220.

### 750.04 Application Requirements

- A. The following information shall be provided by the applicant as part of an application for a *Wind Power Generation Facility* requiring review as a Type I procedure:
  - 1. Site Plans conforming to the requirements of Section 310.04(A).

- B. The following information shall be provided by the applicant, prior to construction, as part of an application for a *Wind Power Generation Facility* requiring review as a Type II procedure:
1. A written narrative for the proposed *wind power generation facility*, including but not limited to:
    - a. Anticipated timeline for permitting, construction and operation;
    - b. Site preparation, vegetation removal and treatment;
    - c. A description of the facility and proposed generation capacity;
    - d. Anticipated noise, light, dust and other impacts on surrounding properties during construction and after development;
    - e. Demonstration of compliance with the provisions of Section 750.05;
    - f. Demonstration of compliance with the provisions of Chapters 620 and 640 of this Ordinance;
    - g. Consultation with the Oregon Department of Fish & Wildlife (ODF&W) regarding possible wildlife impacts from the installation and construction of the proposed facility.
  2. Site Plans conforming to the requirements of Section 310.04(A), also including:
    - a. The location, height, footprint and dimensions of all existing and proposed structures, facilities, components and fencing;
    - b. Number and size of proposed *wind turbine generators*;
    - c. *Wind turbine generator* configuration and layout, including electrical facilities, transmission facilities, substations, distribution, communications and ancillary facilities;
    - d. Adjacent roads;
    - e. Areas of existing and proposed vegetation to be added, retained, replaced or removed;
    - f. Setbacks of all existing and proposed structures from property lines and a vicinity map showing adjacent properties, land uses, zoning, existing buildings and roadways within 2 miles of the proposed facility;
    - g. The location of any bodies of water, waterways and wetlands on the site;
    - h. The location and distance to public or private airports or airstrips, within 2 miles of the proposed project;
    - i. Location of all proposed overhead and underground transmission lines and recorded easements;
    - j. An accurate vicinity map of existing or approved *wind power generation facilities* within one half mile of the proposed facility under consideration.
  3. Identification of potential conflicts, if any, with:
    - a. Wetlands and Floodplains;
    - b. Other resource operations and practices on adjacent lands including *wind power generation facilities* on such adjacent lands; and
    - c. Accepted farm or forest practices on surrounding resource land, including the nature and the extent of the impact of the proposed facility on the cost of such practices.
    - d. Cultural, historic or prehistoric artifacts or sites, if inventoried in the Baker County Comprehensive Plan, and their preservation.
  4. Covenant Not to Sue. A Covenant Not to Sue with regard to generally accepted farming practices shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.

5. Demonstration of compliance with the provisions of Section 750.05(B)(5).
  6. Preliminary Construction, Dismantling and Reclamation Plan. A preliminary construction, dismantling and reclamation plan in accordance with Section 770.02.
  7. Financial Assurances. An explanation of how financial assurances will be provided for dismantling and reclamation, in accordance with Section 770.04.
  8. Other Federal, State and local agency permits, as required, including:
    - a. Identification of required permits
    - b. A statement regarding the status of all required permits at time of application
- C. In addition, the following information shall be provided by the applicant, prior to construction, as part of an application for a *wind power generation facility* requiring review as a Type III procedure:
1. Demonstration of compliance with all criteria that apply to the proposal, including the requirements listed in Section 750.04(B)
  2. A written narrative for the proposed *wind power generation facility*, including but not limited to:
    - a. Site preparation, surveying, and staking
    - b. Water usage, including amounts and sources (during construction and operations)
    - c. Site security and fencing proposed (during construction and operations)
    - d. Waste and hazardous materials management, as well as spill prevention and containment for construction and operation of facility
    - e. Aviation lighting system that demonstrates compliance with Section 750.05(8)
  3. A detailed site plan for the proposed *wind power generation facility*, including but not limited to:
    - a. Substations and transmission lines
    - b. Ancillary facilities, including administrative and/or maintenance facilities
    - c. Temporary construction workspace, yards, staging and storage areas
    - d. All other components of the *wind power generation facility*
  4. Transportation Plan. A plan that describes the impacts from the proposed facility on the local and regional road system during and after construction. The plan shall be created after consultation with Baker County Roadmaster and the Oregon Department of Transportation, when applicable. The plan will designate the size, number, location and nature of vehicle access points. The plan shall also include the location, grades and dimensions of all temporary and permanent on-site roads, as well as a maintenance plan detailing maintenance needs.
  5. Re-vegetation and Erosion Control Plan. An erosion control plan shall be provided. The plan shall be developed in consultation with a qualified professional. It shall include the seeding of all road cuts or related bare road areas as a result of all construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. This requirement will be satisfied if the applicant has a National Pollution Discharge Elimination System (NPDES) permit.
  6. Weed Control Plan. A weed control plan shall be provided, addressing the prevention and control of all Baker County identified noxious weeds directly resulting from the *solar power generation facility* during preparation, construction, operation and demolition/rehabilitation, subject to the



Baker County Weed Department's recommendation. The plan shall also address monitoring during and post-construction. Reimbursement to agencies for their review time shall be the responsibility of the developer.

7. Noise. A description of anticipated noise from the proposed project, as well as mitigation efforts, shall be required.
8. Lighting. A description of anticipated light from the proposed project, as well as mitigation efforts, shall be required.
9. Fire Protection & Emergency Response Plan. A fire prevention and emergency response plan shall be provided for all phases of the life of the facility. The plan shall address the major concerns associated with the site, including but not necessarily limited to the terrain, dry conditions, limited access, available water, and address the fire siting standards for the applicable zone.
  - a. The plan shall verify the fire district and/or contact fire department responsible for providing emergency services. High rise rescue is the responsibility of the *wind power generation facility* owner/operator with local emergency responders, if applicable, providing ground level assistance.
  - b. Spill Prevention Control and Counter Measure Plan (SPCC) shall be provided. The plan shall include verification that a local emergency service provider has equipment, training and personnel to respond to spills.
  - c. Operations and Maintenance Plan detailing expected work force, local response capability (contract or otherwise), controlled access, and in the case of transmission line, proof of emergency response capability in accordance with OPUC rules governing operation and maintenance of such lines.
  - d. An Emergency Response Plan for responding to natural and/or man-made emergencies or disasters.
10. Socioeconomic Impact Assessment. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision makers need information about the socioeconomic impacts which are likely to occur upon development. A socioeconomic impact assessment of the facility shall be submitted, evaluating the effect of the proposed project upon such factors as, but not limited to, the social, economic, public services, cultural, tourism, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative and shall be compared to outright permitted uses of the zone in which the proposed facility would be located.
11. Analysis of impacts of the *wind power generation facility* on:
  - a. Criminal Activity (vandalism, theft, trespass, etc.) and proposed actions, if any to avoid, minimize or mitigate negative impacts.
  - b. A *visual simulation* of the completed project. The overall goal of a *visual simulation* is minimizing visual resource impacts resulting from human activities. The inventory process considers scenic quality of the landscape, viewer sensitivity, and distance from viewer to the landscape. *Visual simulation* is taken from *key observation points* or vantage points selected to

provide a representative geographic distribution of areas likely within the view shed of renewable energy development.

#### **750.05 Review Standards**

- A. The following requirements and restrictions shall apply to all new or replacement *wind power generation facilities requiring review as a Type I procedure*:
1. *Residential Wind Power Generation Facilities* shall meet the setback requirements of Chapter 340.02, prior to issuance of a Zoning Clearance.
  2. Where feasible, electrical cables and transmission lines shall be placed underground.
  3. The applicant shall be responsible for meeting the requirements of other necessary permits.
- B. The following requirements and restrictions shall apply to all new or replacement *wind power generation facilities* requiring review as a Type II or Type III procedure:
1. All setback requirements in Chapter 340, as well as the standards in Section 750.02, must be met prior to commencement of any construction. These setbacks must be depicted in the Site Plan Map submitted with the application. Setbacks shall not apply to power and utility lines, access roads developed to support the facility, and any other development that is reasonably expected to be on or near a property line, unless expressly required by the Planning Commission.
  2. Based on the existing conditions and vegetation at the proposed site, the *wind power generation facility* shall be constructed or surfaced with materials to reduce visibility of the facility through the use of non-reflective materials that minimize glare and blend the structure into the surrounding environment.
  3. Any and all associated equipment located on the structure shall be surfaced in a non-reflective material color to match the structure on which it is located. Nothing in this paragraph preempts the coloring requirements of the Federal Aviation Administration or the Oregon Department of Aviation.
  4. Where feasible, electrical cables and transmission lines shall be placed underground.
  5. The *wind turbine generators* shall be designed to minimize noise or other detrimental effects.
  6. Wildlife Plan. The Baker County Planning Department shall notify ODFW of the opportunity to consult with applicants on *wind power generation facility* projects.
    - a. For *Small-Scale Wind Power Generation Facilities*, a written statement shall be provided from a wildlife professional, addressing known wildlife concerns in the area in relation to the proposed *wind power generation facility*. This statement shall include a map of the property and facility location, a description of the proposed development, and detailed wildlife concerns in relation to the proposed facility. No monitoring plan is required.
    - b. For *Commercial Wind Power Generation Facilities*, a wildlife plan shall be administered by a wildlife professional of the applicant's choosing, in consultation with ODFW. The County has

the option to have the wildlife plan peer reviewed by a wildlife professional of the county's choice, at the applicant's expense. The Oregon Columbia Plateau Eco-Region Wind Energy Siting and Permitting Guidelines or similar guidelines are recommended standards for wildlife studies. For commercial projects being sited by the Energy Facility Siting Council (EFSC), compliance with EFSC's avian and wildlife monitoring requirements will be deemed to meet this requirement. The wildlife plan must include:

- i. Avian
  - ii. Bat
  - iii. Big game species
  - iv. All other wildlife species of reasonable concern
  - v. Impacts to wildlife habitat
  - vi. Habitat mitigation proposed
  - vii. Monitoring plan and proposed mitigation, if necessary
7. Noise. The amount of noise produced by the proposed development must have a minimal adverse impact on abutting properties and the surrounding area compared to the impact of developments which are permitted outright.
8. Lighting. Any proposed lighting must consist of light-emitting diodes (LEDs) and shall be shielded so as to direct light towards the ground in order to minimize adverse impact on abutting properties and the surrounding area compared to the impact of developments which are permitted outright.
9. Weed Plan. A Weed Plan shall be developed in consultation with the Baker County Weed Department in order to minimize adverse impact on abutting properties and the surrounding area compared to the impact of developments which are permitted outright.
10. The *wind turbine generator* shall be designed and constructed to discourage bird nesting and wildlife attraction.
11. Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, or other significant natural resources.
12. In the Exclusive Farm Use zone, *Wind power generation facilities* sited on *high-value farmland* soils must satisfy the following:
- a. Reasonable alternatives have been considered to show that siting the *wind power generation facility* or component thereof on *high-value farmland* soils is necessary for the facility or component to function properly or if a road system or *wind turbine generator* string must be placed on such soils to achieve a reasonably direct route considering the following factors:
    - i. Technical and engineering feasibility;
    - ii. Availability of existing rights of way; and
    - iii. The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under subsection (b);
  - b. The long-term environmental, economic, social and energy consequences resulting from the *wind power generation facility* or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically

result from the same proposal being located on other agricultural lands that do not include *high-value farmland* soils;

- c. Costs associated with any of the factors listed in subsection (a) may be considered, but costs alone may not be the only consideration in determining that siting any component of a *wind power generation facility* on *high-value farmland* soils is necessary;
- d. The owner of a *wind power generation facility* shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and

13. In the Exclusive Farm Use zone, for *arable lands*, meaning lands that are cultivated or suitable for cultivation, including *high-value farmland* soils described at ORS 195.300(10), the governing body or its designate must find that:

- a. The proposed *wind power generation facility* will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;
- b. The presence of a proposed *wind power generation facility* will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
- c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil de-compaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and
- d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.

14. In the Exclusive Farm Use zone, for *non-arable lands*, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of Section 750.05(B)(13)(d) are satisfied.

15. In the Exclusive Farm Use zone, in the event that a *wind power generation facility* is proposed on a combination of *arable* and *non-arable lands* as described in Sections 750.05(B)(13) and Section 750.05(B)(14), the approval criteria of Section 750.05(B)(13) shall apply to the entire project.
  16. A *wind power generation facility* shall be designed, constructed and operated in such a way as to exclude members of the public from close proximity to the *wind turbine generator* blades and unprotected electrical equipment.
  17. A *wind power generation facility* shall be designed, constructed and operated to preclude structural failure of the tower or blades that could endanger the public safety and to have adequate safety devices and testing procedures designed to warn of impending failure and to minimize the consequences of such failure.
  18. Goal Exception. A *wind power generation facility* shall not preclude more than ten acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660-006-0025 (4)(j).
  19. The Preliminary Construction, Dismantling and Reclamation Plan meets the standards set forth in Section 770.02. A Final Dismantling and Reclamation Plan that meets the standards set forth in Section 770.03 will be required prior to beginning construction, as a condition of approval.
  20. Financial assurances, in accordance with Section 770.04, will be provided prior to beginning construction as a condition of approval.
- C. In addition, the following requirements shall apply to all *wind power generation facilities* located in the Timber-Grazing Zone requiring review as a Type III procedure:
1. A *wind power generation facility* shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR-660-004.
- D. In addition, the following requirements and restrictions shall apply to all new or replacement *wind power generation facilities* requiring review as a Type III procedure:
1. Demonstration of compliance with all requirements listed in Section 750.05(B)
  2. No lighting of *wind turbine generators* is allowed under normal operating conditions, except as required by the Federal Aviation Administration, Oregon Department of Aviation, or as a condition of approval by the Planning Commission. If lighting is required, the most technologically advanced devices, such as radar-activated lighting systems, obstruction lighting systems or obstacle collision avoidance systems, shall be used to eliminate night lighting under normal operating conditions. If lighting is required, the light shall be shielded or deflected from the ground and other properties, to the extent practicable.
  3. Prior to commencement of any construction, all other necessary permits shall be obtained (e.g., building permit, rural address, road access and any other permits from the Building Official, Baker County Road Department and/or from the Oregon Department of Transportation, among others).

## 750.06 Adjustments

- A. The *wind power generation facility* requirements shall be facility specific, but can be adjusted as long as the facility does not exceed the boundaries of the Baker County conditional use permit where the original facility was constructed. Adjustments to the original conditional use permit must conform to the standards in Chapter 210.03(B).
- B. An adjustment to the conditional use permit shall be required if proposed facility changes would:
  - 1. Increase the land area taken out of agricultural production by an additional 20 acres;
  - 2. Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception;
  - 3. Require an expansion of the established facility boundaries;
  - 4. Increase the number of *wind turbine generators*;
  - 5. Increase generation output by more than 10 percent relative to the capacity authorized by the initial permit due to the re-powering or upgrading of power generation capacity.
  - 6. Changes to project private roads or access points to be established at or inside the project boundaries.
- C. In order to facilitate appropriate timely response by emergency service providers, notifications by the facility owner/operator to the Baker County Planning Department of changes not requiring an adjustment such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact are required to be reported immediately. An adjustment to a Site Certificate issued by EFSC will be governed by the rules for adjustment established by EFSC.

## **750.07 Abandonment**

- A. The Baker County Planning Director, in consultation with the Oregon Department of Energy and Industry experts, may deem a property abandoned if no power has been generated for a period of two (2) years, or according to industry standards. A notice of abandonment of a *wind power generation facility* shall be sent in the form of a certified, return-receipt letter from the County, or hand delivered by the Baker County Sheriff's office. Such a letter shall identify the property upon which the abandoned *wind power generation facility* is located and shall include an explanation of the action necessary to gain compliance with the Ordinance. This letter shall be delivered to the last known owner of record of the subject parcel according to the tax account information of the Baker County Assessor, as well as to the original applicant for the *wind power generation facility*.
- B. Upon determination of abandonment, the facility owner shall have one year to:
  - 1. Reuse the facility or transfer the facility to another owner who will reuse it within 1 year of the determination of abandonment; or
  - 2. Remove the facility.
- C. If the facility is not reused or restored within one year of the determination of abandonment, County authorization for the use shall expire. Once authorization for the use has expired, the facility shall be removed from the property as per the requirements of Chapter 750.07 within 1 year. If the facility is

not removed within 1 year, the County may remove the facility at the expense of the property owner. The county retains the right to file a lien for the value of the removal of the facility, plus interest, at the property owner's expense. The determination of abandonment is not a land use decision and cannot be appealed to LUBA. However, the Planning Director's decision can be appealed by the project owner or landowner, as described in Section 115.06(G) and Section 115.07(G) of this Ordinance.

## **750.08 Signs**

- A. Outdoor displays, signs, or billboards within the energy facility project boundary shall not be erected, except:
1. Signs required for public or employee safety or otherwise required by law; (e.g., OSHA or compliance with the Manual of Uniform Traffic Control Devices (MUTCD) administered through the County Road Department); and
  2. All signs must receive approval based on the standards included in Chapter 730 in the Baker County Zoning Ordinance.

**Chapter 760**  
**SOLAR POWER GENERATION FACILITY**

- 760.01 Purpose**
- 760.02 Applicability**
- 760.03 Uses**
- 760.04 Application Requirements**
- 760.05 Review Standards**
- 760.06 Amendments**
- 760.07 Abandonment**
- 760.08 Signs**

**760.01 Purpose.** The purpose of this Chapter is to promote the safe, effective and efficient installation of *solar power generation facilities* within Baker County for the production and consumption of electricity.

**760.02 Applicability.** This ordinance applies to *solar power generation facilities* installed and/or constructed after the effective date of the ordinance. *Solar power generation facilities* constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance. Any upgrades, modifications, or changes that materially alter the size or placement of an existing *solar power generation facilities* shall comply with the provisions of this ordinance. A renewable energy facility that meets the definition of ORS 215.446(1) shall meet the criteria listed in ORS 215.446 and all associated standards.

A. As used in this chapter:

“High-value farmland” means:

- a. High-value farmland as described in ORS 215.710 that is land in an exclusive farm use zone or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (2), (4) and (6) are December 6, 2007.
  - b. Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June 28, 2007, is:
    - i. Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;
    - ii. Within the boundaries of a district, as defined in ORS 540.505; or
    - iii. Within the boundaries of a diking district formed under ORS chapter 551.
  - c. Land that contains not less than five acres planted in wine grapes.
1. Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent, and that is located within the portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208 that is within the State of Oregon. Photovoltaic solar power generation facility includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components.



Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this Section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operation business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

**760.03 Uses.** There are four categories of *solar power generation facilities* and accessory uses permitted, as described below:

- A. **Accessory Uses.** The installation and use of a solar power generation facility is an outright permitted use in any zone when located:
  1. On a residential structure in a zone in which residential structures are an allowed use unless subsection (c) of this Section applies; or
  2. On a commercial structure in any zone in which commercial structures are an allowed use unless subsection (c) of this Section applies.
  3. If the residential or commercial structure is designated as any of the following, the provisions of 760.02(A) do not apply:
    - a. A federally or locally designated historic building or landmark, or is located in a federally or locally designated historic district.
    - b. A conservation landmark designated by the County because of the historic, cultural, archaeological, architectural or similar merit of the landmark.
    - c. Located in an area designated as a significant scenic resource *unless* the material used must be designated as anti-reflective or eleven percent or less reflective.
- B. ***Small-Scale Solar Power Generation Facilities.*** A *solar power generation facility* which produces power to be used for non-commercial purposes and is not located within the Exclusive Farm Use or Timber Grazing zone. *Small-scale solar power generation facilities* may generate up to 150% of the expected annual energy need for the primary use.
- C. ***Commercial Solar Power Generation Facilities.*** A *solar power generation facility* which produces power to be used to power commercial developments, uses, structures or businesses located on the same parcel or tract as the *solar power generation facility* and is not located within the Exclusive Farm Use or Timber Grazing zone. Net-metering is permitted with *commercial solar power generation facilities* if it does not exceed 150% of the average expected annual energy production.

D. *Utility-Scale Solar Power Generation Facilities.* A solar power generation facility which produces power to be sold and used for public consumption.

E. Types of Procedures

1. Permits for accessory uses described in 760.02(A) will follow the Type I procedure provisions of Section 115.05 as long as the installation of a solar power generation facility can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed, and the solar power generation facility would be mounted so that the plane of the system is parallel to the slope of the roof.
  - a. No Planning Department fees are to be charged for processing the permit, regardless of whether a Type I procedure can be used. Building Department fees may still apply.
  - b. Extensive surveys, including but not limited to, vegetation surveys, contour maps and elevation drawings, may not be required.
2. A *Small-Scale or Commercial Solar Power Generation Facility* measuring less than 3 acres, accessory to and providing power to a primary use on property within the same ownership, and with net-metering not exceeding 150% of the average expected annual energy production, may be permitted when authorized in accordance with the Type I procedure provisions of Section 115.05. A *Small-Scale or Commercial Solar Power Generation Facility* may be located in any zone subject to the following siting requirements and standards:
  - a. On or accessory to a residential structure which has been permitted or has been identified as a pre-existing, non-conforming structure; or
  - b. On or accessory to a commercial structure which has been permitted or has been identified as a pre-existing, non-conforming structure; and
  - c. Sited in rear- or side-yards and measuring no more than 15 feet in height; and
  - d. Sited in a location which meets all applicable setback requirements set forth in *Chapter 340 – Development Standards (Setback Requirements) for All Zones*.
  - e. Where feasible, electrical cables and transmission lines shall be placed underground.
3. A *Small-Scale or Commercial Solar Power Generation Facility* measuring more than 3 acres, and with net-metering not exceeding 150% of the average expected annual energy production, may be permitted when authorized in accordance with the Type III procedure provisions of Section 115.07.
4. A *Utility-Scale Solar Power Generation Facility* may be permitted when authorized through a Conditional Use Permit, and in accordance with the Type III procedure provisions of Section 115.07. A *Utility-Scale Solar Power Generation Facility* may be located in any zone subject to the following siting requirements and standards:
  - a. No portion of a *Utility-Scale Solar Power Generation Facility* shall be within 1,320 feet of:
    - i. Properties designated on the Comprehensive Land Use Zoning Maps as residential (those zoned Rural Residential (RR-5) or Recreation Residential (RR-2) only), or

- ii. The city limits of an incorporated city, unless a resolution specifically supporting placement of a *solar power generation facility* within 1,320 feet of the city limits has been passed by the city council of that city.
  - b. No portion of a *Utility-Scale Solar Power Generation Facility* shall be located within 1,320 feet of an existing dwelling unless an Affidavit of Consent has been signed by all property owners with an existing dwelling within 1,320 feet of the facility. This Affidavit of Consent shall be recorded by deed in the Baker County Clerk's Office.
  - c. All *Utility-Scale Solar Power Generation Facilities* shall meet setback requirements set forth in *Chapter 340 – Development Standards (Setback Requirements) for All Zones*.
  - d. No portion of a *Utility-Scale Solar Power Generation Facility* shall be located within 1 mile of an existing airport or airstrip.
  - e. Where feasible, electrical cables and transmission lines shall be placed underground.
- F. Permit Expiration Dates and Extensions. *Solar Power Generation Facilities* shall be subject to permit expiration periods and extension requirements set forth in Chapter 220 of this Ordinance.

#### **760.04 Application Requirements**

- A. An application for a Type I *solar power generation facility* shall include all application requirements set forth in Section 115.05.
- B. In addition to the application requirements set forth in Section 115.07, the following information shall be provided by the applicant as part of a Type III *solar power generation facility*:
  - 1. Narrative. A written narrative for the proposed *solar power generation facility*, including but not limited to a description of:
    - a. Demonstration of compliance with all criteria that apply to the proposal, including those listed in Chapter 210 Conditional Uses;
    - b. The proposed facility and generation capacity, including expected average annual net-metering output, and anticipated timeline for permitting, construction and energy production, operation, and utilization;
    - c. Site preparation, surveying and staking, including:
      - i. A description of how the proposed solar power generation facility equipment, buildings, panels, power lines, related facilities and roads shall be designed and constructed in order to:
        - A. Limit ground leveling for the proposed facility to those areas needed for effective solar energy collection and so that the natural ground contour is preserved to the greatest extent practical; and

- B. Remove and stockpile top soil, upon the commencement of site work, for later re-spreading over disturbed areas prior to re-vegetation; and
  - C. Ensure that minimal vegetation is removed from the site; that vegetation beyond the site perimeter is not disturbed; and that a 500-foot buffer zone of undisturbed soil and vegetation on either side of stream courses; and
  - D. Ensure that roads and transmission lines crossing riparian areas are designed and constructed at minimum widths in consideration of maximum erosion control.
- d. A description of the materials and design of the proposed facility, including confirmation that the following design aspects have been met:
- i. Based on the existing conditions and vegetation at the proposed site, the *solar power generation facility* has been constructed or surfaced with materials to reduce visibility of the facility through the use of non-reflective materials that minimize glare and blend the structure into the surrounding environment.
  - ii. The proposed *solar power generation facility* has been designed to prevent the misdirection of solar radiation onto nearby property, public roads or other areas accessible to the public.
  - iii. *Solar panels* have been designed and constructed to discourage bird nesting and wildlife attraction.
- e. Confirmation that all chemicals or solvents used to clean solar panels or heliostats are low in volatile organic compounds and that the operator will use recyclable or biodegradable products to the extent possible.
- f. A description of existing and proposed roads associated with the facility. Existing roads shall be utilized as much as practical. Private access roads established and controlled by the owner/operator of the *solar power generation facility* shall be gated to protect the facility and property owners from illegal or unwarranted trespass or illegal activities.
- g. Vegetation removal and re-vegetation plans, including:
- i. Re-vegetation and Erosion Control Plan. The plan shall be developed in consultation with a qualified professional. It shall include the seeding of all road cuts or related bare road areas as a result of all construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, or other significant natural resources; and
  - ii. Weed Control Plan. The plan shall be developed in conjunction with the Baker County Weed Department. It shall include the prevention and control of all Baker County identified noxious weeds directly resulting from the *solar power generation facility* during preparation, construction, operation and demolition/rehabilitation. The plan shall also address monitoring before, during and after construction. Reimbursement to agencies for their review time shall be the responsibility of the developer.

- h. The number and type of workers to be employed at the facility during installation, construction and operation, including detailed information pertaining to expected work force, contracted or otherwise.
  - i. Noise, light, dust, vibration, glare and other impacts on surrounding properties during installation, construction and operation.
  - j. Water usage, including amounts and sources during installation, construction and operation.
  - k. Site security and fencing proposed during installation, construction and operation, including:
    - i. A description of measures which will be taken to protect the public and restrict unauthorized persons from entering the project site; and
    - ii. An analysis of impacts of the *solar power generation facility* on criminal activity (vandalism, theft, trespass, etc.) and proposed actions, if any, to avoid, minimize or mitigate negative impacts.
  - l. Waste and hazardous materials management, including:
    - i. Documentation that activities have been designed and will be conducted to comply with the air and water quality standards of DEQ; and
    - ii. A spill prevention control plan describing spill prevention and containment during installation, construction and operation of the proposed facility, including verification that a local emergency service provider has equipment, training and personnel to respond to spills; and
    - iii. A waste disposal plan describing the location and manner of waste disposal, in conformance with DEQ standards.
  - m. Identification of potential conflicts, if any, with:
    - i. Identified wetlands and floodplains; and
    - ii. Other resource operations and practices on adjacent lands including *solar power generation facilities* on such adjacent lands; and
    - iii. Accepted farm or forest practices on surrounding resource land, including the nature and the extent of the impact of the proposed facility on the cost of such practices; and
    - iv. Cultural, historic or prehistoric artifacts or sites, if inventoried in the Baker County Comprehensive Plan, and their preservation.
2. Site Plan. Site plans conforming to the requirements of Section 310.04(A), and also including:
- a. *Solar power generation facility* configuration and layout, including number and size of all:
    - i. solar panels
    - ii. transmission lines and easements
    - iii. substations

- iv. distribution, communication and ancillary facilities, including administrative and/or maintenance facilities; and
  - v. string converters
  - vi. fences
- b. Identification of the percentages of high value soils, as defined in Chapter 150, arable soils and nonarable soils on the project site, and on the subject tract. The development site plan shall be overlaid on the specific soil types identified in this subsection.
  - c. Setbacks of all existing and proposed structures from property lines.
  - d. An accurate vicinity map showing adjacent properties, land uses, zoning, existing buildings and roadways within one half mile of the proposed facility.
  - e. An accurate vicinity map of all existing, approved or abandoned *solar power generation facilities* within one half mile of the proposed facility under consideration.
  - f. Areas of existing and proposed vegetation to be added, retained, replaced or removed.
  - g. Temporary construction workspace, yards, staging and storage areas.
  - h. The location of any public or private roads and easements associated with the *solar power generation facility*.
  - i. The location of any bodies of water, waterways and wetlands on the site.
  - j. The location and distance to public or private airports or airstrips, within one mile of the proposed project.
3. Wildlife Plan. The Baker County Planning Department shall notify ODFW of the opportunity to consult with applicants on the development of *Utility-Scale Solar Power Generation Facilities*. Subsequent to this consultation, the following shall be required:
- a. If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife agency will cooperatively develop an agreement for the project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

- b. If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the Comprehensive Plan, and the Plan does not address conflicts between energy facility development and the resource, the applicant and the County, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is not a program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the County is responsible for determining appropriate mitigation measures.
  - c. Evidence of consultation with the Oregon Department of Fish & Wildlife (ODFW) regarding possible wildlife impacts from the installation, construction and operation of the proposed facility. A wildlife plan shall be administered by a wildlife professional of the applicant's choosing, in consultation with ODFW. The County has the option to have the wildlife plan peer reviewed by a wildlife professional of the county's choice, at the applicant's expense. For commercial projects being sited by the Energy Facility Siting Council (EFSC), compliance with EFSC's avian and wildlife monitoring requirements will be deemed to meet this requirement. The wildlife plan must include:
    - i. Avian
    - ii. Bat
    - iii. Big game species
    - iv. All other wildlife species of reasonable concern
    - v. Impacts to wildlife habitat
    - vi. Habitat mitigation proposed
    - vii. Monitoring plan and proposed mitigation, if necessary
  - d. Demonstration of compliance with the provisions of Chapter 620 - *Big Game Habitat Overlay Zone (BGHO)* and Chapter 640 - *Sensitive Bird Habitat Overlay Zone (SBHCOZ)* of this Ordinance, or OAR 660-023-0115 Greater Sage-Grouse, will also be required if applicable.
4. Fire Protection & Emergency Response Plan. Activities shall be designed and conducted to provide fire protection measures acceptable to the County, any adjacent land management agency and any fire district in which the project is located. A fire prevention and emergency response plan shall be provided for all phases of the life of the facility. The plan shall identify the fire district in which the facility is located and verify that this district has the appropriate equipment, training and personnel to respond to fires. If the local fire department or district does not have adequate capability for emergency response at this facility, the applicant shall provide a plan for providing such in case of an emergency. The plan shall also address the major concerns associated with the site, including but not necessarily limited to:
- a. terrain
  - b. dry conditions
  - c. limited access
  - d. available water
  - e. fire siting standards for the applicable zone
  - f. prevention or control of fires
  - g. blow-outs
  - h. adverse weather conditions

5. Socioeconomic Impact Assessment. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision makers need information about the socioeconomic impacts which are likely to occur upon development. A socioeconomic impact assessment of the facility shall be submitted, evaluating the effect of the proposed project upon such factors as, but not limited to, the social, economic, public services, cultural, tourism, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative and shall be compared to outright permitted uses of the zone in which the proposed facility would be located.
6. Interconnect. Evidence of an active utility transmission interconnect request and/or process and description of same; and a route and permitting plan for transmission lines connecting the project to the grid.
7. Preliminary Construction, Dismantling and Reclamation Plan. A preliminary construction, dismantling and reclamation plan in accordance with Section 770.02.
8. Financial Assurances. An explanation of how financial assurances will be provided for dismantling and reclamation, in accordance with Section 770.04.
9. Permits. Other Federal, State and local agency permits shall be included with the application for the *solar power generation facility*, as required, including:
  - a. Identification of required permits.
  - b. A statement regarding the status of all required permits at time of application.

## **760.05 Review Standards**

- A. The following requirements and restrictions shall apply to all new or replacement *Type I Solar Power Generation Facilities*:
  1. Demonstration of compliance with all criteria set forth in this Ordinance for the applicable underlying zone.
  2. Demonstration of compliance with all standards included in Section 760.03.
  3. Demonstration of compliance with all criteria included in Section 760.04.
  4. Demonstration of compliance with all setback requirements included in Chapter 340.
- B. The following requirements and restrictions shall apply to all new or replacement *Type III Solar Power Generation Facilities*:
  1. Demonstration of compliance with all criteria set forth in this Ordinance for the applicable underlying zone.
  2. Demonstration of compliance with all standards included in Section 760.03.
  3. Demonstration of compliance with all criteria included in Section 760.04.



4. Demonstration of compliance with all criteria included in Chapter 210.
  5. Demonstration of compliance with all setback requirements included in Chapter 340.
  6. Acknowledgement of Farm and Forest Practices. If the *solar power generation facility* is located in or adjacent to the EFU or TG Zones, an *Acknowledgement of Farm and Forest Practices* shall be recorded with the County. Generally accepted farming and forest practices shall be consistent with the definitions under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm or forest use for generally accepted farming and forest practices.
  7. Demonstration that the Preliminary Construction, Dismantling and Reclamation Plan meets the standards set forth in Section 770.02. A Final Dismantling and Reclamation Plan that meets the standards set forth in Section 770.03 will be required prior to beginning construction, as a condition of approval.
  8. Financial assurances, in accordance with Section 770.04, will be provided prior to beginning construction as a condition of approval.
- C. In addition to all siting requirements listed in Sections 760.03, 760.04, and 760.05(B), all *solar power generation facilities* sited in the Exclusive Farm Use (EFU) Zone:
1. Must demonstrate necessity.
    - a. A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.
    - b. To demonstrate that a utility facility is necessary, an applicant for approval must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
      - i. Technical and engineering feasibility;
      - ii. The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
      - iii. Lack of available urban and non-resource lands;
      - iv. Availability of existing rights of way;
      - v. Public health and safety; and
      - vi. Other requirements of state or federal agencies.
  2. A *solar power generation facility* may be approved only where such uses:
    - a. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
    - b. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

3. On high-value farmland, a *solar power generation facility* shall not use, occupy, or cover more than 12 acres. The governing body or its designate must find that:
  - a. The proposed *photovoltaic power generation facility* will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and/or placing solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;
  - b. The presence of a *photovoltaic solar power generation facility* will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
  - c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil de-compaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;
  - d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;
  - e. Except for electrical cable collection systems connecting the solar power generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);
  - f. The project is not located on high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
    - i. Non-high-value farmland soils are not available on the subject tract;
    - ii. Siting the project on non-high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
    - iii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non-high-value farmland soils; and
  - g. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
    - i. If fewer than 48 acres of solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

- ii. When at least 48 acres of solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
4. For arable lands, a *photovoltaic power generation facility* shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied:
- a. Except for electrical cable collection systems connecting the solar power generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);
  - b. The proposed *solar power generation facility* is not located on high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
    - i. Non-arable soils are not available on the subject tract;
    - ii. Siting the project on non-arable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
    - iii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non-arable soils;
  - c. No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to ORS 197.732 and OAR 660-004;
  - d. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
    - i. If fewer than 80 acres of *solar power generation facilities* have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.
    - ii. When at least 80 acres of *solar power generation facilities* have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the *solar power generation facility* will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential *solar power generation facilities* will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and
  - e. The requirements of Section 760.05(C)(3)(a-d) are satisfied.

5. For non-arable lands, a *photovoltaic solar power generation facility* shall not use, occupy or cover more than 320 acres. The governing body or its designate must find that:
  - a. Except for electrical cable collection systems connecting the solar power generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);
  - b. The proposed *photovoltaic solar power generation facility* is not located on high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
    - i. Siting the *photovoltaic solar power generation facility* on non-arable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
    - ii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of non-arable soils;
  - c. No more than 12 acres of the *photovoltaic solar power generation facility* will be sited on high-value farmland soils described in this chapter;
  - d. No more than 20 acres of the *photovoltaic solar power generation facility* will be sited on arable soils;
  - e. The requirements of Section 760.05(C)(3)(d) are satisfied;
6. An exception to the acreage and soil thresholds in subsections 3-5 of this Section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.
7. In the EFU Zone, any required permanent maintenance/operations buildings shall be located off site in an appropriately zoned area to the extent practicable, except that such a building may be constructed on site if:
  - a. The building is designed and constructed in a way that is generally consistent with the character of similar buildings used in conjunction with farm use; and
  - b. The building will be removed or converted to farm use upon dismantling of the *solar power generation facility*.

## **760.06 Adjustments**

- A. The *solar power generation facility* siting requirements shall be facility specific, but can be adjusted as long as the facility does not exceed the boundaries of the Baker County conditional use permit where the original facility was constructed. Adjustments to the original conditional use permit must conform to the standards in Chapter 115.03(B).
  1. An adjustment to the original conditional use permit shall be required if proposed facility changes would:
    - a. Require an expansion of the established facility boundaries;
    - b. Increase the footprint of the *solar power generation facility* by more than 20 percent;

- c. Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity;
  - d. Increase the number of panels;
  - e. Change any roads or access points established at or inside the facility boundaries;
2. In order to facilitate appropriate timely response by emergency service providers, notifications by the facility owner/operator to the Baker County Planning Department of changes not requiring an adjustment (such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact) are required to be reported immediately. An adjustment to a Site Certificate issued by EFSC will be governed by the rules for adjustment established by EFSC.

## **760.07 Abandonment**

- A. The Baker County Planning Director, in consultation with the Oregon Department of Energy and Industry experts, may deem a property abandoned if no power has been generated for a period of two (2) years, or according to industry standards. A notice of abandonment of a *solar power generation facility* shall be sent in the form of a certified, return-receipt letter from the County, or hand delivered by the Baker County Sheriff's office. Such a letter shall identify the property upon which the abandoned *solar power generation facility* is located and shall include an explanation of the action necessary to gain compliance with the Ordinance. This letter shall be delivered to the last known owner of record of the subject parcel according to the tax account information of the Baker County Assessor, as well as to the original applicant for the *solar power generation facility*.
- B. Upon determination of abandonment:
- 1. The facility owner shall have one year to:
    - a. Reuse the facility or transfer the facility to another owner who will reuse it within 1 year of the determination of abandonment; or
    - b. Remove the facility.
  - 2. If the facility is not reused or restored within one year of the determination of abandonment, County authorization for the use shall expire. Once authorization for the use has expired, the facility shall be removed from the property as per the requirements of Section 750.08 within 1 year. If the facility is not removed within 1 year, the County may remove the facility at the expense of the property owner. The county retains the right to file a lien for the value of the removal of the facility, plus interest, at the property owner's expense. The determination of abandonment is not a land use decision and cannot be appealed to LUBA. However, the Planning Director's decision can be appealed by the project owner or landowner, as described in Section 115.05(G) and Section 211.06(G) of this Ordinance.

## 760.08 Signs

- A. All *solar power generation facility* sites shall have a sign area of not less than three, nor more than six, square feet in surface area prominently erected, which displays the site's name or identification number; the name, address and phone number of the operator; and the name and phone number of the operator's representative to be contacted in the event of an emergency.
- B. Outdoor displays, signs, or billboards within the *solar power generation facility* project boundary shall not be erected, except:
  - 1. Signs required for public or employee safety or otherwise required by law; (e.g., OSHA or compliance with the Manual of Uniform Traffic Control Devices (MUTCD) administered through the County Road Department); and
  - 2. All signs must receive approval based on the standards included in Chapter 730 in the Baker County Zoning Ordinance.

**Chapter 770**  
**DISMANTLING AND FINANCIAL ASSURANCE STANDARDS**

- 770.01 Purpose & Applicability**
- 770.02 Preliminary Construction, Dismantling and Reclamation Plan**
- 770.03 Final Dismantling and Reclamation Plan**
- 770.04 Financial Assurance**

**770.01 Purpose & Applicability**

- A. Purpose.** The purpose of this Chapter is to provide standards for plans and actions to dismantle wireless communication facilities, wind generation facilities, and solar generation facilities, as well as to direct how financial assurances for dismantling and restoration will be provided when required.
- B. Applicability.** This section applies to wireless communication facilities, wind power generation facilities, and/or solar power generation facilities constructed after the effective date of the ordinance as specified in Chapters 740, 750 or 760. Such facilities constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance.

**770.02 Preliminary Construction, Dismantling and Reclamation Plan.** The applicant and landowner shall agree to a preliminary plan for dismantling/reclamation that provides completion of dismantling/reclamation of the facility without significant delay and protects the public health, safety and environment of Baker County, in compliance with the restoration requirements of this Section.

- A.** A detailed construction timeline shall be required and shall include the following:
  - 1. Anticipated timeline for permitting, construction and operation
  - 2. Detailed timetable and sequence of construction, including but not limited to:
    - a. Access and transportation system details, including component delivery
    - b. Construction schedule and work force numbers, vehicles and equipment, including breakdown of days and hours
    - c. Site clearing, grading and excavation
    - d. Gravel, aggregate and concrete needs and sources
    - e. Assembly and construction of structure(s) and any accessory use(s)
    - f. Electrical construction activities
    - g. Site stabilization, protection and reclamation practices
- B.** The applicant must submit a description of actions the applicant and landowner propose to take to restore the site if operation of the facility ceases. The proposal shall describe steps taken to restore the site to a useful, non-hazardous condition, including options for:
  - 1. Post-dismantle/reclamation land use;
  - 2. Information on how impacts on wildlife and the environment will be minimized during the dismantling/ reclamation process;
  - 3. Measures that will be taken to protect the public against risk or danger resulting from post-dismantling site conditions; and
  - 4. A plan for disposing of the project components.

**770.03 Final Dismantling and Reclamation Plan.** Before beginning construction of the facility, the applicant must submit a final plan for dismantling/reclamation of the facility that is in substantial conformance with the preliminary plan approval and includes the following:

- A. A detailed dismantling/reclamation cost analysis shall be required. This analysis shall be performed by a professional of the County's choosing, at the applicant's expense, and shall be approved by a professional engineer. This analysis shall be re-evaluated and submitted to Baker County every five (5) years, as described in Section 750.07(B)(1)(a). If a re-evaluation of the cost of dismantling/reclamation estimates the cost to be higher than the value of the financial assurance established in Section 770.04 below, the County shall notify the project owner/applicant and the financial institution who issued the bond. The financial assurance shall be updated and reissued for an amount not less than that estimated for dismantling/reclamation, within 90 days of the re-evaluation. The dismantling/reclamation analysis shall include the following:
  - 1. Salvage plan, including name and location of facility where electrical components will be disposed
  - 2. Five (5)-year-low salvage values. Only the preceding five-year low salvage value can be used in the analysis. No used equipment values can be used in the analysis.
  - 3. Labor costs
- B. As a condition of approval, the landowner(s) shall sign and record an acknowledgement in the deed records for the county stating the landowner(s), and the landowner's successors in interest, are responsible for enacting the dismantling and reclamation plan described in Section 770.03.

**770.04 Financial Assurance.** Before beginning construction of the facility, the applicant must submit a surety bond or Certificate of Deposit (CD), the amount of which shall be based on a detailed reclamation cost analysis, in a form satisfactory to Baker County, assuring the availability of adequate funds to restore the site to a useful, non-hazardous condition if the operator fails or is otherwise unable to restore the site as required by the permit. A bond or CD shall be established to cover the cost of dismantling/reclamation of the facility, as well as site rehabilitation. The intent of this requirement is to guarantee performance (not just provide financial insurance) and to protect the public interest and County budget from unanticipated, unwarranted burden in the dismantling/reclamation of facilities. The bond or CD shall be issued in favor of Baker County and the landowner. For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.

A. Surety Bonds.

- 1. Bond must be properly executed by principal, including display of corporate seal (if available). The relationship of the signatory to the principal is to be shown on the bond form itself or in an accompanying document.
- 2. Bond must be properly executed by acceptable surety, with the seal of corporate surety affixed, and accompanied by the power of attorney (POA) showing proof of signing authority as surety's representative. Surety bonds must be issued by a qualified surety (insurance company) approved by the US Department of Treasury.
- 3. Bond must be at least for the required amount.



4. Principal and surety must be indicated in proper locations on the bond form.
  5. The dollar amount must be spelled out [for example, Ten Thousand Five Hundred Fifty and no/100 Dollars (\$10,550.00)].
  6. Execution date on bond must be completed and date must precede the date of filing of bond.
  7. Power of Attorney must show that person signing for surety had authority to do so on the date bond was executed. The date must be the same as or earlier than the date the bond was executed. At the end of the POA, there should be a completed certificate indicating that the POA is still valid on a certain date. This certificate must be dated the same date the bond is executed or within a few days thereafter.
- B. Personal Bonds. The principal (obligor) may furnish a personal bond in lieu of a surety bond to ensure compliance with all the terms and conditions of a plan and operations on private land. The dollar amount must be spelled out on the bond form [for example, Ten Thousand Five Hundred Fifty and no/100 Dollars (\$10,550.00)]. The personal bond form must be notarized. Baker County will accept two financial forms of personal bonds:
1. Cash Bond. A cash bond must be submitted in the form of a guaranteed remittance, such as a cashier's check, bank draft, certified check, USPS money order, or cash that shall be deposited by Baker County when received. The check must be payable in U.S. dollars and issued by a U.S. bank. The check must be issued to Baker County. Baker County shall not pay interest on a cash bond.
  2. Certificates of Deposit (CD). Federally-insured certificate of deposit payable to Baker County, requiring the following information:
    - a. Financial institution must be federally insured or a Federal Reserve Branch bank.
    - b. CD must indicate that "*Baker County*" is granted full authority to demand immediate payment in case of default. Approval by the Board of Commissioners is required prior to redemption of the CD by any party.
    - c. CD shall be issued to or for the benefit of the Baker County, and Baker County shall not pay interest on the deposit.
    - d. The amount of the bond shall be adjusted for inflation using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services' "*Oregon Economic and Revenue Forecast*," or by any successor agency (the "*Index*"). The applicant shall increase the amount of the bond annually by the percentage increase in the Index and shall pro-rate the amount within the year to the date of retirement. If at any time the Index is no longer published, Baker County shall select a comparable index for adjusting the amount.
    - e. The bond shall not be subject to revocation or reduction before retirement of the energy project site. If there is an increase in cost in future re-estimates, the bond shall also be increased.
    - f. For facilities subject to Energy Facility Siting Council jurisdiction, a finding by the Council that a proposed energy facility meets the Council's Retirement and Financial Assurance standard, OAR 345-022-0050, satisfies the requirements of paragraph (2).

- C. If at any point prior to completion of the dismantling and reclamation plan the financial assurance described in this section lapses, the lapse will be a violation of the land use permit. The Planning Director shall refer the matter to the Planning Commission for appropriate action upon notification of the lapse.