

## OTHER APPLICABLE ORDINANCE STANDARDS

In addition to the standards we develop as part of the new commercial energy ordinance, the following standards are already applicable.

---

### Chapter 3

#### Overlay Zones

- 3.740 – Flood Hazard Overlay
- 3.750 – Geologic Hazards Overlay
- 3.760 – Airport Impact Overlay
- 3.770 – Cultural & Historic Overlay
- 3.800 – Aggregate Overlay
- 3.910 – Natural Areas
  - Deschutes Wild & Scenic River
  - John Day Wild & Scenic River
  - White River
  - White River Wildlife Management Area (ODFW)
  - Other Designated Areas
- 3.920 – Sensitive Wildlife Habitat (Big Game Winter Range)
- 3.960 – Sensitive Bird Sites (Identified Raptor Nests – ¼ mile buffer)
- 3.970 – Western Pond Turtle Habitat Overlay (NW part of county)

#### A-1 Zone – Section 3.210

##### E. Conditional Uses

The following is not currently included but the Commercial Energy use will be amended to include this language.

The energy facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660, Division 4, or 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660, Division 4 and ORS 197.732. This requirement is not applicable to wind energy facilities, transmission lines or pipelines.

##### J. Additional Standards

17. Wind Power Generation Facility: For purposes of this section a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to

serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances.

a. For high-value farmland soils described in ORS 195.300(10), it must be found that all of the following are satisfied:

(1) 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 turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

(a) Technical and engineering feasibility;

(b) Availability of existing rights of way; and

(c) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under paragraph (2) of this subsection.

(2) 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.

(3) Costs associated with any of the factors listed in paragraph (1) of this subsection 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.

(4) The owner of a wind power generation facility approved under Section (a) above shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(5) The criteria in Section (b), below are satisfied.

b. For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described in ORS 195.300(10), it must be found that:

- (1) The proposed wind power 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; and
  - (2) The presence of a proposed wind power 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; and
  - (3) 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 decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and
  - (4) 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.
- c. For nonarable lands, meaning lands that are not suitable for cultivation, it must be found that the requirements of Subsection (b)(4) above are satisfied.
  - d. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Sections (b) and (c) above, the approval criteria of Section (b) shall apply to the entire project.
- H. Agricultural Protection: The uses listed in Section D, Uses Allowed Subject to Standards and E, Conditional Uses must meet the following standards:
1. Farm-Forest Management Easement: The landowner is required to 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 case of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

2. Protection for Generally Accepted Farming and Forestry Practices - Complaint and Mediation Process: The landowner will receive a copy of this document.

## F-2 Zone – Section 3.120

### D. Conditional Uses

1. Utility facilities for the purpose of generating power. A 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 chapter 660, division 004 and must be reviewed and determined to comply with Chapter 19 standards and criteria for energy facilities and commercial energy facilities.

### F. Conditional Use Approval Standards

In addition to the general standards and conditions that may be attached to the approval of a conditional use as provided by Chapter 5 of this Ordinance, the following review criteria shall apply to a conditional use applied for in subsection (D) of this Section:

1. The proposed use will not significantly increase the fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
2. The landowner for the use shall sign and record in the deed records for the County a forest Farm Management Easement document binding the landowner and 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 30.93.936 or 30.93.937.

### J. Siting Requirements for Compatibility of New Dwellings and Accessory Structures

The following siting criteria shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. Dwellings and structures shall be sited on the parcel so that:

1. Site Selection for Least Impact - Siting shall result in the least possible impact on nearby or adjoining forest or agricultural lands.
  - a. Siting shall ensure that forest operations and accepted farming practices will not be curtailed or impeded.

- b. Siting shall minimize the amount of forest or farm land removed from production for access roads, service corridors, the dwelling and accessory structures.
2. Dwelling and Accessory Structure Set Backs - To satisfy 1. above, dwellings and their accessory structures shall be sited a minimum of 100 feet from property lines. This set back is intended to limit the potential for conflict (including increased fire risk) between residential use and existing or potential resource use on surrounding parcels. Exceptions to this requirement may be granted outside the standard variance procedure in Chapter 6, if the applicant can demonstrate that the siting the dwelling within 100 feet but not less than 40 feet from the public right of way or property line better accomplishes the objectives listed in 1. above.
3. Clustering of Development - Clustering development near or among existing structures and in as limited a portion of the site as practical is considered preferable when developing in the Forest Zone. The applicant may be required to demonstrate that development has been clustered sufficiently to limit impacts on the undeveloped portion of the parcel or tract.
4. Good Proximity to Public Roads - Siting close to existing roads is generally considered preferable and may be required of the applicant if it best accomplishes the overall intent of the siting requirements.
5. Development Located on Least Productive Portion of Land - Siting development on that portion of the parcel least well suited for growing trees is considered preferable. The applicant may be required to demonstrate that the location of development will impact the least productive portion of the parcel or tract.
6. Road Maintenance Required - If road access to the dwelling is by a road owned and maintained by the County, a private party, the Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or maintenance agreement allowing permanent access to a dwelling site. The road use permit or maintenance agreement may require the applicant to agree to accept full or partial responsibility for road maintenance.
7. Authorization for Domestic Water Supply - The applicant shall provide evidence to the approving authority that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water or surface water. For purposes of this section, evidence of a domestic water supply means:
  - a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or

- b. A water use permit issued by the Water Resources Department for the use described in the application; or
  - c. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements, the applicant shall submit the well constructor's report to the county upon completion of the well.
8. Forest Stocking Requirements - Approval of a dwelling shall be subject to the following requirements:
- a. Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules;
  - b. The director or the director's designee shall notify the county assessor of the above condition at the time any decision to permit a dwelling is approved;
  - c. The property owner of a parcel more than 30 acres in size, shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that the minimum stocking requirements have not been met;
    - (1) Upon notification by the assessor, the Department of Forestry will determine whether the tract meets minimum stocking requirements. If the tract does not meet those requirements the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation and impose (ORS 321.359) the additional tax.
    - (2) The landowner for the dwelling shall sign and record in the deed records for the county a Forest Farm Management Easement. 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 30.93.936 or 30.93.937.

---

Chapter 5 - Conditional Use Review

SECTION 5.020 Authorization to Grant or Deny Conditional Uses, and Standards and Criteria Used

- A. The proposal is consistent with the goals and objectives of the Comprehensive Plan and implementing Ordinances of the County.
- B. Taking into account location, size, design and operational characteristics of the proposed use, the proposal is compatible with the surrounding area and development of abutting properties by outright permitted uses.
- C. The proposed use will not exceed or significantly burden public facilities and services available to the area, including, but not limited to: roads, fire and police protection, sewer and water facilities, telephone and electrical service, or solid waste disposal facilities.
- D. The proposed use will not unduly impair traffic flow or safety in the area.
- E. The effects of noise, dust and odor will be minimized during all phases of development and operation for the protection of adjoining properties.
- F. The proposed use will not significantly reduce or impair sensitive wildlife habitat, riparian vegetation along streambanks and will not subject areas to excessive soil erosion.
- G. The proposed use will not adversely affect the air, water, or land resource quality of the area.
- H. The location and design of the site and structures for the proposed use will not significantly detract from the visual character of the area.
- I. The proposal will preserve areas of historic value, natural or cultural significance, including archaeological sites, or assets of particular interest to the community.
- J. The proposed use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to or available for farm and forest use. (Revised 1-92)
- K. The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to or available for farm or forest use. (Revised 1-92)

**SECTION 5.040 Revocation of Conditional Use Permit**

Noncompliance with any condition placed on a conditional use permit shall be grounds for revocation of the permit. Revocation of a conditional use permit shall be considered a land use action and reviewed by the Planning Commission. The following procedures shall be completed at least twenty (20) days prior to the date of the revocation hearing: (Revised 1-92)

- A. A notice of violation pursuant to Section 15.090 shall be sent to the owner of the property on which the conditional use takes place.
- B. Notice of public hearing pursuant to Section 2.080 shall be sent.

The opportunity for review of the Planning Commission decision, pursuant to Section 2.170 shall be available.

---

**Chapter 20 Site Plan Review Applicable Sections**

- 20.030 Contents of the Site Plan
- 20.040 Approval Standards
- 20.050 Off-Street Parking
- 20.055 BICYCLE PARKING REQUIREMENTS
- 20.060 Public Parking Area
- 20.070 Off-Street Loading
- 20.080 General Provisions - Off-Street Parking and Loading