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ZONING AND SUBDIVISION  
ORDINANCE #83-3  
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## **ARTICLE 1: INTRODUCTORY PROVISIONS**

### **SECTION 101 SHORT TITLE**

This Ordinance may be cited as the "Baker County Land Use Ordinance of 1983" or "Ordinance No. 83-3."



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## **ARTICLE 1: INTRODUCTORY PROVISIONS**

### **SECTION 102 ADOPTION**

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



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## **ARTICLE 1: INTRODUCTORY PROVISIONS**

### **SECTION 103 PURPOSES**

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.





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## **ARTICLE 1: INTRODUCTORY PROVISIONS**

### **SECTION 104 REPEALER**

The following ordinances, together with all amendments thereto, are repealed on the effective date of this Ordinance.

The Baker County Zoning and Subdivision Ordinances enacted January 31, 1974.

Ordinance No. 82-2 providing interim protection for agriculture and forest lands within Baker County enacted August 18, 1982.



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## **ARTICLE 1: INTRODUCTORY PROVISIONS**

### **SECTION 105 APPLICATION**

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

- A. Land managed by agencies of the federal government.
- B. Regarding Greenhorn, this Ordinance shall apply until Greenhorn, which has been found to be an incorporated city, is able to provide by Ordinance for its own Comprehensive Land Use Plan and Ordinance.
- C. Land subject to ORS 92.325 is exempted from subdivision provisions enumerated by the referenced statute.



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## **ARTICLE 1: INTRODUCTORY PROVISIONS**

### **SECTION 106 COMPLIANCE**

Except as this Ordinance provides, no person shall:

- A. Locate, erect, construct, maintain, repair, alter use a building or other structure;
- B. Subdivide, partition 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.



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## **ARTICLE 1: INTRODUCTORY PROVISIONS**

### **SECTION 107 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.



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## **ARTICLE 1: INTRODUCTORY PROVISIONS**

### **SECTION 108a CONSTRUCTION AND DEFINITION**

The construction of words in provisions of the Ordinance and the definitions of words in the Ordinance shall be as follows.

#### **A. CONSTRUCTION**

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Ordinance.

- 1) Tense: Words used in the present tense shall include the future tense.
- 2) Number: Words used in the singular shall include the plural and words used in the plural shall include the singular.
- 3) Shall and May: The word "shall" is mandatory. The word "may" is permissive.
- 4) Gender: The masculine shall include the feminine and neuter.
- 5) Headings: In the event there is any conflict or inconsistency between the headings of an Article, 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.
- 6) The word "County" shall mean Baker County, Oregon. The words "County Court" and "Court" shall mean the County Court of Baker County. The words "Planning Commission" and "Commission" shall

mean the County Planning Commission of Baker County duly appointed by the County Court. The words "Planning Director", "Community Development Director" and "Director" shall mean the Baker County Planning Director or Baker County Community Development Director.

## B. DEFINITIONS

As used in this Ordinance the following words and phrases shall mean:

**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.

**Accessory use or accessory structure:** A use of land, building or other structure that is incidental 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 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 the applicable zoning. This line adjustment is also known as a Lot Line Adjustment. [Ref. ORS 92.010 (7) (b)]

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

**Agricultural land:** Land classified by the U.S. Soil Conservation Service (SCS) as predominantly Class I-VI soils and other lands which are suitable for farm use, taking into consideration soil fertility, suitability for grazing and cropping, climatic conditions, 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. See, also ORS 215.203(2)(a,b).

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

**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.

**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.

**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.

**Building:** A structure designed or intended for the support, shelter or enclosure of persons, animals, goods, chattel, or property of any kind.

**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.

**Camp, tourist or trailer park:** See, Campground or RV/Recreational Vehicle Park, Section 108(B).

**Campground:** An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. See, also RV/Recreational Vehicle Park, Section 108(B). [OAR 660-33-130(19)(1994)]

**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 agriculture:** Consists of farm and ranch operations which will:

- a. Contribute in a substantial way to the area's existing agricultural economy;
- b. Help maintain agricultural processors and established farm markets; and
- c. 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 agricultural enterprise:** Consists of farm operations that contributes in a substantial way to the area's existing agricultural economy and helps 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. [OAR 660-33-020(2)(a) (1994)]

**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.

**Contiguous:** Connected in such manner as to form a single block of land. [OAR 660-33-020(3)(1994)]

**Contiguous land:** Areas, tracts or units of land, including water, under single ownership, having one or more boundary lines wholly or partially in common, except:

- a. when units are joined by a point contact only; or
- b. when units are separated by a four-lane public road.

**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. [OAR 660-33-020(4)(1994)]

**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. [Ref. ORS 92.010, 92.075(1)(2)]

**Declaration:** The instrument describing why the subdivision or partition plat was created. [Ref. ORS 92.010, 92.075(1)(2)]

**Designated rangeland:** Unirrigated agricultural land, and land so interspersed with it 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.

**Disposal site:** The use of land 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 468.740 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.

**Dwelling:** Any building or portion thereof which is not an apartment house, lodging house or hotel, which contains one dwelling unit intended or designed to be built, used, rented, leased, let or hired out or sold to be occupied or which is occupied for living purposes. Dwelling shall also mean that structure located on the same lot or parcel as the dwelling of a farm operator and occupied by a relative, which means grandparent, parent, child, brother or sister of the farm operator, and whose assistance in the management of the farm is or will be required by the farm operator. **IT SHOULD BE NOTED THAT DWELLINGS APPROVED UNDER ORS 215.283(1)(e) CANNOT BE PARTITIONED FROM THE PARENT PARCEL (ORS 215.263(7)) EXCEPT AS OTHERWISE AUTHORIZED BY THE ORDINANCE.**

- a. **Single family dwelling:** A detached building containing one dwelling unit.



b. Two-family dwelling (Duplex): A detached building containing two dwelling units designed for occupancy by two families.

c. Recreational dwelling: A residence occupied intermittently in conjunction with leisure time activities.

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 Section 1106 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 unlawfully 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 acknowledgment 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 this Ordinance.

Dwelling unit: A structure containing one room of at least 150 square feet of floor area with a -ceiling height of not less than seven feet six inches and at least one other room of 70 square feet. There shall also be cooking facilities and a bathroom with a ceiling height of not less than seven feet.

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

Family: An individual of two or more persons related by blood, marriage, adoption, legal guardianship, living together as one dwelling unit using one kitchen, and providing meals or lodging to not more than

two additional persons, excluding servants; or a group of not more than five unrelated persons, living together as one housekeeping unit using one kitchen; or five or fewer unrelated physically or mentally handicapped adults plus staff, living together as one housekeeping unit using one kitchen. (Ch. 293 OR Laws 1983)

**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. [OAR 660-33-130(9)(1994)]

**Farm use:** The current employment of land for the primary purpose of obtaining a profit in money, including that portion of such land under buildings supporting accepted farming practices, by raising, harvesting and selling crops or by 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 and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise. (See ORS 215.203 for a complete description).

**Feeding station:** An area, public or private, the primary use of which is to feed big game. Emergency feeding stations are limited to ones not in use beyond two feeding seasons. No permanent structures are to be allowed at an emergency feeding station.

**Feedlot:** An enclosure designed or used for the purpose of the concentrated feeding or fattening of livestock for marketing.

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

**Flood hazard area:** The relatively flat area of lowland adjoining the channel of a river, stream, other water course, lake or reservoir which has been or may be covered by a 100-year flood.

**Flood hazard boundary map:** An official map of the community furnished by the Federal Insurance Administration labeled as Flood Hazard Boundary Map and delineating the boundaries of the special hazard areas.

**Floodway, regulatory:** The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the waters of a 100 year flood.

**Forest land:** Land composed of existing and potential forest lands which are suitable for commercial forest uses including the production of trees and the processing of forest products; other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation; lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use; and other forested lands in urban and agricultural areas which provide urban buffers, windbreaks, wildlife and fisheries habitat, scenic corridors and recreational use.

**Forest uses:** The production of trees and the processing of forest products, open space, buffers from

noise, visual separation of conflicting uses, watershed protection and wildlife and fisheries habitat, soil protection from wind and water, maintenance of clean air and water, outdoor recreational activities and related support services and wilderness values compatible with these uses and grazing for livestock.

**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.

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

**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:

- a. 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 32 to 36 strokes.
- b. Non-regulation golf courses, as defined in 108(B) are not allowed uses in the Exclusive Farm Use zone. OAR 660-33-130(20)(1994)

**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; 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. 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. [OAR 660-33-130(20)(d)(A)(1994)]

**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 operation:** Includes the crushing, sorting, screening and asphaltic compounding normally associated with such operation whether for immediate removal or stockpiling. The term does not include the storing or stockpiling of asphaltic compounds or compounded materials or any wastes or residue thereof on a continuing basis.

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

**Height of building:** The vertical distance above grade to the highest point of the coping roof; or the average height of the highest gable of a pitch or hip roof.

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

- a. Irrigated and classified prime, unique, Class I or Class II; or
- b. Not irrigated and classified prime, unique, Class I or Class II.
- c. 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 Soil 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 statement of agreement from the Soil Conservation Service that the soil class, soil rating or other soil designation should be adjusted based on new information. [OAR 660-33-020(8)(1994)]

**Home occupation:** A lawful occupation carried on within a dwelling or a customary accessory building thereto, by members of family occupying the dwelling with no more than five full or part-time employees being engaged. The home occupation shall not impart the outward appearance of a business in the ordinary meaning of that term; cause or lead to a significant increase in the flow of traffic in the neighborhood or noise production or any other form of environmental pollution; and shall maintain the residential character of the dwelling and neighborhood.



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## **ARTICLE 1: INTRODUCTORY PROVISIONS**

### **SECTION 108b CONSTRUCTION AND DEFINITION**

**Hotel, motel:** 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.

**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. [OAR 660-33-020(9)(1994)]

**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.

**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.

**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.

**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. [Ref. ORS 92.010(3)]

**Lot area:** The total horizontal area within the boundary lines of a lot or parcel, exclusive of streets, roads and access easements to other property which are maintained in the underlying fee of the lot or parcel. The lot area of a lot or parcel created as a result of a subdivision or partition after the effective date of this provision, shall not be less than eighty-five percent (85%) of the minimum lot or parcel size required by the zone.

**Lot, corner:** See, Corner lot.

**Lot line:** The property line bounding the lot.

**Lot line, front:** See, Front Building Line.

**Lot line, rear:** See, Rear Lot Line.

**Lot line, side:** See, Side Lot Line.

**Lot size:** The total horizontal area within the boundary lines of a lot, 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 lot.

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

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

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

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

**Mobile home:** A structure or vehicle containing one dwelling unit that is constructed in whole or in part

for non-self-propelled movement on the public highways. A mobile home shall be no less than 500 square feet as measured by its external dimensions, exclusive of any hitching or towing device. A mobile home shall bear the insignia of compliance with ORS 446 as administered by the Oregon Department of Commerce.

**Mobile home park:** Any place where four or more mobile homes are located within 500 feet of one another on a lot or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space in connection with securing the trade or patronage of such persons.

**Modular home:** A factory-built home that has a continuous width of 20 feet or more and is the result of the combination of joining (at the time placed on the property) of two or more sections, to which wheels may be attached for the purpose of moving it to a permanent location to be affixed to the real property by a permanent and continuous wall foundation. Modular homes are regulated by provisions of the Oregon Structural Specialty Code.

**Motel:** See, Hotel.

**Motor home:** A structure or vehicle containing some or all of the provisions of a dwelling unit, that is constructed for self-propelled movement on public highways. A motor home is or may be subject to the motor vehicle licensing requirements of the Oregon Department of Motor Vehicles.

**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.

**Multiple family dwelling:** See, Apartment House or Lodging House.

**Natural area:** Includes 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.

**Negotiate:** 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.

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

**Non-regulation golf course:** Golf courses or golf course-like development that does not meet the definition of golf course in 108(B) including but not limited to executive golf courses, Par 3 golf courses, pitch and putt golf courses, miniature golf courses, and driving ranges.

**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.

**Owner:** A person, his authorized agent or representative having legal authority to use, transfer or lease land. Owner shall also mean the contract purchaser of real property of record as shown on the last available complete tax assessment role.

**Parcel:** A single unit of land created:

- 1) By partitioning land as defined in ORS 92.010; and
- 2) By a recorded deed or land sales contract prior to January 1, 1990 in which each parcel resulting from the partition complied with the applicable planning, zoning, or partitioning standards in effect at the time the partition occurred; or
- 3) By partition plat after January 1, 1990 which has been duly recorded in the Office of the County Clerk; or
- 4) As a result of a court approved lien foreclosure of a "mortgage segregation" used to facilitate and secure a loan from a federally insured lending agency.
- 5) As a result of probate action prior to final acknowledgment of the County's Comprehensive Plan on April 24, 1986.
- 6) Does not include a unit of land created solely to establish a separate tax account.
- 7) A lot of a duly recorded subdivision or parcel of a legal partition shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated by property line adjustment, replatting, or where parcels were created by deed, by incorporating legal area descriptions from two or more deeds into a single deed, or unless the lot or parcel is further legally divided, as provided by law.
- 8) Notwithstanding subsection (7) of this definition, separate lots or parcels shall be maintained where a deed:
  - a. describes lots or parcels created as a result of a duly recorded subdivision plat, partition plat, or re-



plat; or

b. describes units of land that are not contiguous; or

c. describes units of land that are contiguous only at a single point;

d. conveys more than one parcel into a trust for estate planning purposes. In such event, each parcel conveyed into the trust may only be re-conveyed in the exact configuration that the parcel was conveyed into the trust, unless prior planning approval is granted to convey the property in a different configuration.

**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 space:** A clear offstreet 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 partitioning land or an area or tract of land partitioned.

**Partition land:** Means to divide land into two or three parcels of land within a calendar year but does not include: [Ref. ORS 92.010(7)]

a. 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

b. 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 any applicable zoning ordinance.

c. The division of land resulting from the recording of a subdivision or condominium plat; or [Ref. ORS 92.010(7)(c), 1993]

d. 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 215.213(2)(p) to (r) and 215.283(2)(p) to (r). 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. (ORS 92.010(7)(d))

**Partition plat:** A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition prepared by an Oregon Licensed Surveyor. [Ref. ORS 92.010(8), 92.050(3)]

**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.

**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 homes association, and common property.

**Plat:** A final subdivision plat, replat or partition plat map. [Ref. ORS 92.010(9)]

**Prefabricated dwelling:** A dwelling which has been wholly or substantially manufactured at an off-site location to be wholly or partially assembled on site; but does not include a mobile home, motor home, trailer home, travel trailer, or recreational vehicle.

**Property line:** Refers to any boundary line of a lot or parcel of land under one ownership.

a. **Front property line:** That property line separating a lot or parcel from a road, street or highway. A corner lot or parcel may have two such lines.

b. **Rear property line:** That property line opposite or most nearly opposite the front line.

c. **Side property line:** A property line that is not the front or rear property line.

**Property line adjustment:** The relocation of a common property line between two adjacent properties.

**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.

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

**Rear lot line:** 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.

**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, Section 108(B).

**Recreation vehicle:** 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.

**RV/Recreational vehicle 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. See, also Campground, Section 108(B).

Relative: For the purposes of the provisions of BCZO 301.01(o) only, "relative" means: grandparent, grandchild, parent, child, brother or sister. [ORS 215.283(1)(B)]

Replat: 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.

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

Riparian zone or area: Refers to 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 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.

a. City 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.

b. 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.

c. 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.

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

e. Right of way and traveled way: Includes all bridges, tunnels, fills, and other structures or improvements designed or intended to provide continuity of such ways.

f. 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.

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

**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:** A series of partitions of land located within this state 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.

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

**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.

**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.

**Structure:** Something constructed or built and having fixed base on, or fixed connection to, the ground or another structure.

**Subdivide land:** Means to divide land into four or more lots within a calendar year.

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

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

**Tract:** One or more contiguous lots or parcels in the same ownership. [OAR 660-33-020(10-)(1994)]

**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.

**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.

**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 or intended or for which either is occupied or maintained. The term shall include accessory uses subordinate to the main use.

**Utility facility:** 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, 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 115KVs.

Local distribution utility facilities are local sewer, water, gas, telephone and power distribution lines and are permitted as outright uses in any zone. Towers 200' or higher must be reviewed as Conditional Use. A power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR 660 Division 4. [OAR 660-33-130(17)(1994)]

**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 manufactured from the corner intersection of the lot line 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 three-and-one-half feet in height measured from the top of the grade.

**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.

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

a. **Yard, front:** A yard 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.

b. **Yard, rear:** A yard 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.

c. **Yard, side:** A yard between the front and rear yards measured horizontally at right angles from the side lot lines to the nearest point of the building.



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## **ARTICLE 2: ESTABLISHMENT OF ZONES AND MAPS**

### **SECTION 201 CLASSIFICATION OF ZONES**

For the purpose of this Ordinance the following zones are hereby established.

#### **ZONE ABBREVIATED DESIGNATION**

Exclusive Farm Use EFU

Timber-Grazing T-G

Rural Residential RR-5

Recreation Residential RR-1

Rural Service Area RSA

Primary Forest PF

Mineral Extraction ME

Surface Mining SM

Tourist Commercial TC

General Commercial GC

Commercial Industrial CI

Airport Development AD

Airport Overlay AO

Industrial I

Sumpter Valley Management Area SVMA

Future Development Area FDA

Sumpter Valley Overlay Zone SVOZ

Limited Use Combining Zone LU



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## **ARTICLE 2: ESTABLISHMENT OF ZONES AND MAPS**

### **SECTION 202 LOCATION OF ZONES**

The boundaries for the zones listed above are indicated on the Baker County Zoning and Plan Map and the Mineral Extraction Zone Map which are hereby adopted by reference. Additionally, a series of maps and orthophotos (1" = 400' or 1" = 2000') are used in the County Planning Office to more clearly show the zone boundaries than can be shown on the adopted zoning map on which 1/2" = 5280'. 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.





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## **ARTICLE 2: ESTABLISHMENT OF ZONES AND MAPS**

### **SECTION 203 ZONING MAP**

A Zoning map or Zoning Map Amendment adopted by Section 202 of this Ordinance 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. Private lands lying within National Forest boundaries (PF Zone) are subject to the provisions of the Timber Grazing (TG) Zone or Mineral Extraction (ME) Zone.



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## **ARTICLE 2: ESTABLISHMENT OF ZONES AND MAPS**

### **SECTION 204 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.



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## **ARTICLE 3: USE ZONES**

### **SECTION 301 EXCLUSIVE FARM USE ZONE (EFU)**

In the EFU zone the following regulations shall apply.



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## **ARTICLE 3: USE ZONES**

### **SECTION 301.01 PERMITTED USES**

In the EFU zone the following uses and their accessory uses are permitted.

- A. Farm uses as defined in ORS 215.203(2), except a use specified in Subsection 301.02(c) of this Section.
- B. Propagation or harvesting of a forest product (ORS 215.203(2)(b) and ORS 215.283(1)(c).
- C. Local distribution utility facilities as defined in Section 108(B) of this Ordinance. [Ref. ORS 215.283(1)(d)(1993); OAR 660-33-120(1994)]
- D. Dwelling and other buildings customarily provided in conjunction with farm use (ORS 215.283(1)(e) and (f)). Farm related dwellings shall be subject to the provisions of Article 4, Section 413. Placement of these dwellings shall be in conformance with state laws and rules. [Ref. ORS 215.283(1)(e)(1993)]
- E. Operations conducted for the exploration of geothermal resources as defined in ORS 522.005. [Ref. 215.283(1)(g)(1993); OAR 660-33-120(1994)]
- F. A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation. [Ref. ORS 215.283(1)(i), OAR 660-33-120(1994)]
- G. Climbing and passing lanes within the right-of-way existing as of July 1, 1987. [Ref. 215.283(1)(k) (1993); OAR 660-33-120(1994)]

- H. Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result. [Ref. 215.283(1)(L)(1993); OAR 660-33-120(1994)]
- I. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed. [Ref. ORS 215.283(1)(m)(1993); OAR 660-33-120(1994)]
- J. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within the right-of-way existing as of July 1, 1987, and contiguous to publicly-owned property utilized to support the operation and maintenance of public roads and highways. [Ref. ORS 215.283(1)(n)(1993); OAR 660-33-120(1994)]
- K. A 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. [Ref. ORS 215.283(1)(o)(1993); OAR 660-33-120(1994)]
- L. The breeding, boarding and training of horses for profit. [Ref. ORS 215.203(2)(1993); OAR 660-33-120(1994)]
- M. Creation of, restoration of or enhancement of wetlands. [Ref. ORS 215.283(1)(q)(1993); OAR 660-33-120(1994)]
- N. Dwellings in conformance with the lot of record provisions pursuant to ORS 215.705 and OAR 660-33-130(3)(a).
- O. Dwellings on real property used for farm use if the dwelling is located on the same parcel as the dwelling of the farm operator and is occupied by a relative of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator. "Relative" is defined in Section 108(B) of this ordinance.[Ref. ORS 315.283(1)(e)(1993)]
- P. Alteration, restoration or replacement of a lawfully established dwelling pursuant to ORS 215.283(1)(t).
- Q. Accessory farm dwellings in conformance with ORS 215.283(1)(f)(1993) and OAR 660-33-130(24).
- R. Temporary mobile home placements [ORS 215.283(2)(k)(1993)]



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## **ARTICLE 3: USE ZONES**

### **SECTION 301.02 CONDITIONAL USES**

In the EFU zone the following uses may be permitted when authorized in accordance with the requirements of Subsections 301.05 and 301.06 of this Section and Article 6 of this Ordinance.

- A. Public or private schools, including all buildings essential to the operations of a school. [Ref. ORS 215.283(1)(a)(1993); OAR 660-33-120(1994)]
- B. Churches, and cemeteries in conjunction with churches. [Ref. ORS 215.283(1)(b)(1993); OAR 660-33-120(1994)]
- C. 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, when such uses are located within one-half mile of a residential zone.
- D. Major utility facilities as defined in Section 108(B) of this ordinance.
- E. Commercial activities that are in conjunction with farm use. [ORS 215.283(2)(a)(1993)]
- F. Operations conducted for the exploration, mining and processing of aggregate and other mineral resources or other subsurface resources subject to the restrictions and permits of the Department of Geology and Minerals Industry. See, Mineral Extraction Zone when dealing with patented mining claims. [Ref. ORS 215.283(1)(h), ORS 215.283(2)(b)(A)(1994)]
- G. Private, semi-public and public parks, playgrounds, hunting and fishing preserves, campgrounds, and community centers. [Ref. ORS 215.283(2)(c) & (d)]

H. 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 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. [Ref. ORS 215.283(2)(g); OAR 660-33-120(1994)]

I. Home occupation carried on by the resident as an accessory use within a dwelling or other building customarily provided in conjunction with farm use. [Ref. ORS 215.283(2)(h)(1993)]

J. A facility for the primary processing of forest products provided it can be determined that such facility does not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period, which is renewable. These facilities are 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 method 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 on a parcel of land or contiguous land where the primary processing facility is located. [Ref. 215.283(2)(i)(1993); OAR 660-33-120(1994)]

K. Repealed.

L. Golf courses. [Ref. 215.283(2)(h)(1993); OAR 660-33-120(1994)]

M. Repealed (Ord. 94-11)

N. Single family residential dwellings not provided in conjunction with farm use pursuant to ORS 215.284(2).

O. Feeding station, wildlife management area.

P. Kennels. [Ref. ORS 215.283(2)(m)(1993); OAR 660-33-120(1994)]

Q. Residential homes for handicapped persons, as defined in ORS 443.400(6), in existing dwellings. [Ref. ORS 215.283(2)(n)(1993)]

R. The propagation, cultivation, maintenance and harvesting of aquatic species. [Ref. ORS 215.283(2)(o)(1993)]

S. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels. [Ref. ORS 215.283(2)(p)(1993); OAR 660-33-120(1994)]

T. 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. [Ref. ORS 215.283(2)(q)(1993); OAR 660-33-120(1994)]

U. Improvements of public roads and highway related facilities, such as maintenance yards, weight stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels. [Ref. ORS 215.283(2)(r)(1993); OAR 660-33-120(1994)]

V. A destination resort which is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort. [Ref. ORS 214.283(2)(s)(1994); OAR 660-33-120(1994)]

W. Guest Ranch in conjunction with an existing commercial cattle, sheep, horse, or bison operation that complies with ORS 215.203, and the requirements under Section 603.09(B) of this Ordinance. For purposes of subsection 301.02(W), guest shall mean a person who purchases an activity package which includes ranch and recreational activities and which may include meals, as provided for in subsections 603.09(D) and (E).





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## **ARTICLE 3: USE ZONES**

### **SECTION 301.03 DWELLINGS IN THE EFU ZONE**

A. Placement of dwellings in the EFU zone shall conform to statutory and rule provisions.

B. Dwellings located within the Big Game Habitat Overlay

The Goal 5 elk winter habitat protection maps as adopted by Baker County are inventoried as to median ownership size of parcels within the areas to be protected. Where the overall median ownership, expressed in acres, of any Elk Winter Habitat Protection Plan quadrangle map is reduced by ten percent or more from the median size calculated in the spring of 1986 and calculated May 1, 1987 and during periodic review thereafter, the following criteria shall be applied to dwelling applications within the quadrangle map. The Planning Commission has the discretion to review median ownership patterns at other times as it deems necessary.

1) A review of ownership sizes surrounding an area proposed for a nonresource permit within protected elk winter habitat areas shall be conducted.

2) The proposed parcel shall not alter the overall land use pattern found in the area by requiring that the proposed residential parcel be as large or larger than the median ownership within at least a one-mile radius review area.



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## **ARTICLE 3: USE ZONES**

### **SECTION 301.04 USES NOT PERMITTED**

In the EFU zone the following uses are not permitted.

- A. Subdivisions.
- B. Any structural uses intended for human habitation or occupancy within the Airport Overlay zone.



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## **ARTICLE 3: USE ZONES**

### **SECTION 301.05 MINIMUM PARCEL SIZES**

Except as provided for under Section 502 of this Ordinance, new parcels in the EFU Zone shall comply with the following minimum parcel size requirements.

- A. 80 acres if fully covered by valid primary water rights.
- B. 160 acres for non-irrigated land, or two 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 irrigated acres + 40 non-irrigated acres = 100 acres).

C. In the EFU Zone, a parcel created to accommodate a conditional use shall comply with the following requirements.

- 1) 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
- 2) The remaining parcel complies with the requirements under Section 301.05(A) or (B), as applicable.

D. If land in the EFU Zone is also located in the Big Game Habitat Overlay, the minimum parcel size for a non-farm or lot of record dwelling 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 was legally created prior to January 1, 1986, a dwelling may be allowed subject to the following conditions:

- 1) 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. For non-farm partitions in the Big Game Habitat Overlay, generally, the minimum parcel size shall be 40 acres.
- 2) There is no other dwelling located on the property.

E. The minimum parcel size for a farm related dwelling based on minimum parcel sizes established by statute and/or rule shall be 160 acres irrigated or 320 acres nonirrigated, or a combination thereof in accordance with 301.05(b) above, except that there shall be 2 acres for each dry acre less than 160. For example, 100 acres of irrigated land would require a minimum parcel size of 220 acres ( $160 - 100 = 60$ ;  $60 \times 2 = 120$ ; 100 irrigated acres + 120 non-irrigated acres = 220 acres).



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## ARTICLE 3: USE ZONES

### SECTION 301.06 STANDARDS FOR CONDITIONAL USES IN THE EFU ZONE

In addition to other required conditions and to optional stipulations that may be attached to the approval of a conditional use as provided by Article 6 of this Ordinance, the following criteria shall be satisfied for all conditional uses permitted in subsection 301.02.

Conditional uses permitted by subsection 301.02 of this section may be established on agricultural lands subject to the criteria set forth in this section and upon written findings by the Commission that each of the following is satisfied. A finding of non-applicability shall include a reason for the non-applicability.

- A. The use or activities associated with the use 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 use will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to the creation of other nonfarm parcels to the detriment of agriculture in the area will be considered pursuant to OAR 660-033-0130(4)(a)(D).
- C. The use is situated on a parcel or portion of a parcel which is generally unsuitable for the production of farm crops and livestock considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation and location and size of the tract. 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.
- D. When the use is a dwelling, the dwelling will be situated upon land which, as a condition of approval, can be approved for sub-surface sewage disposal or an approved alternative sewage disposal system.
- E. The portion of land approved for a use under Section 301.02 of this Ordinance shall be disqualified from farm deferral where the land cannot reasonably continue in farm use.

F. 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.

G. The use complies with such other conditions, as the Planning Commission considers necessary.



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## **ARTICLE 3: USE ZONES**

### **SECTION 302.01 TIMBER-GRAZING ZONE PERMITTED USES**

In the T-G zone, the following uses and their accessory buildings and uses are permitted.

A. 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.

B. Temporary onsite structures which are auxiliary to and used during the term of a particular forest operation.

C. Physical alterations to the land auxiliary to forest practices.

1) The term, "auxiliary" as used in Section 302.01 means a use or alteration of a structure or land which 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.

D. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;

E. The development and use of surface mining operations which are located on forest lands in the County, from which materials are to be used for forest access roads, or other supporting forest

management activities, such as riprapping, bridge wing wall diversions and culvert bedding. The activities in this section shall be consistent with the State Forest Practices Act and OAR 629-24-111.

F. Exploration for mineral and aggregate resources. "Exploration" means 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. See ORS 517 for further explanation.

G. Municipal watersheds.

H. Additional local distribution lines within existing rights-of-way (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, meter cabinets, terminal boxes, pedestals), or which provide service hookups, including water service hookups.

I. Farm use, as defined in ORS 215.203(2), except livestock 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 half-mile of a residential zone.

J. Temporary portable facility for the primary processing of forest products.

K. Private hunting and fishing operations without any lodging accommodations.

L. Towers and fire stations for forest fire protection.

M. Widening of roads within existing rights-of-way of public road and highway projects. [ORS 215.283 (1)(k) through (n)]

1) Climbing and passing lanes within the right-of-way existing as of July 1, 1987.

2) Reconstruction or modification of public roads and highways, 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 time as no longer needed.

4) Minor betterment of existing public roads 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 public-owned property utilized to support the operation and maintenance of public roads and highways.

N. Exploration that does not require a permit from the Department of Geology and Mineral Industries (DOGAMI) for geothermal resources, gas, oil, and other associated hydrocarbons.

O. Caretaker residences for public parks and fish hatcheries.

P. Maintenance, repair or replacement of existing dwellings.

Q. Temporary Mobile Home (family hardship), subject to provisions of 302.05, 302.07 and Section 404.





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## **ARTICLE 3: USE ZONES**

### **SECTION 302.02 CONDITIONAL USES**

In the Timber Grazing zone, the following uses and their accessory uses may be permitted when authorized in accordance with the requirements of Subsection 302.06 and Article 6 of the Baker County Zoning Ordinance.

- A. Feeding stations and wildlife management areas subject to the provisions of Section 603(F).
- B. Water impoundments in conjunction with beneficial uses of water customarily associated with fire prevention, farm or forest uses, or as a source of water for domestic or municipal use, provided that necessary state and federal permits have been issued.
- C. Operations conducted for mining and processing minerals, aggregate and geothermal resources, gas oil and other associated hydrocarbons, except those allowed outright. Exploration that requires a permit from the Department of Geology and Mineral Industries is included in this category. (See, Mineral Extraction zone when dealing with patented mining claims.)
- D. Parks and campgrounds. For the purpose of Section 302.02(d), a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds authorized under this section shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. The precise duration of allowed stay will be decided by the Planning Commission at the time of permitting.

E. Home occupations subject to the provisions of Section 603(c).

F. Personal use airports; heliports, unless the heliport is in conjunction with commercial forest use. A personal use airport as used in this section means an airstrip restricted to use by the owner as defined in ORS 215.283(2)(g).

G. 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 half-mile of a residential zone.

H. Fire stations for rural fire protection.

I. Private seasonal accommodations for fishing and fee hunting operations, subject to the following requirements:

- 1) Accommodations are limited to no more than fifteen (15) guest rooms as defined in the Oregon structural Specialty Code.
- 2) Only minor incidental and accessory retail sales are permitted.
- 3) Accommodations are occupied temporarily for the purpose of fishing and hunting during the hunting and fishing seasons authorized by the Oregon Department of Fish and Wildlife.
- 4) Compliance with siting standards of Subsection 302.07.
- 5) The fire siting safety design standards for roads and driveways as defined in Subsection 302.08.

J. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects. [ORS 215.283(2)(p-r)]

- 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) Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way are required but not resulting in the creation of new land parcels.

K. A site for the disposal of solid waste approved by the governing body of a city or county or both 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. [ORS 215.283(2)(j) and OAR 660-06-025(4)(d)]



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## **ARTICLE 3: USE ZONES**

### **SECTION 302.03 FARM OR FOREST MANAGEMENT DWELLINGS**

May be established subject to the approval of the Baker County Planning Commission.

A. A dwelling in conjunction with farm use may be established subject to applicable standards of Article 6 and finding that the proposed dwelling can satisfy all of the following criteria.

- 1) The parcel is devoted to existing farm uses; where the day-to-day activities are principally directed to the farm use on the parcel.
- 2) The dwelling is customarily provided in conjunction with farm use.
- 3) The parcel is large enough for the appropriate continuation of the existing commercial agricultural enterprise in the area.
- 4) The single-family dwellings and other buildings are customarily provided in conjunction with farm use.
- 5) Compliance with such other conditions as the governing body or its designate considers necessary.

B. If an accessory farm dwelling is proposed, it must meet the criteria of 302.03(a)(1-5) and be occupied by an employee or a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator.

C. A Forest Management dwelling may be established subject to Article 6 and upon a finding that each proposed dwelling:

- 1) Is necessary for and accessory Rule definition: 660-06-027 (1): (a) "necessary for" means the dwelling will contribute substantially to effective and efficient management of the forest land to be managed by the resident(s) of the dwelling; (b) "Accessory to" means that the dwelling is incidental and subordinate to the main forest use. to forest operations, including cultured Christmas trees as defined in ORS 215.203(3). That determination shall be based on review of a forest management plan, which shall, at a minimum, provide information necessary to complete a forest management form regarding the condition and productivity of the lands to be managed, a chronological description of commercial forest management activities to be undertaken by the resident(s) or under contract, and estimates of yield, labor and expenses.
- 2) There are no other dwellings suitable for forest management activities on the property which are vacant or currently occupied by persons not engaged in forestry, which could be used as the principal forest management dwelling on the forest operation.
- 3) Does not seriously interfere with, increase the cost of or otherwise impede forest management practices on adjacent lands devoted to forest use (as regulated by the Oregon Forest Practices Act, ORS 527.610 through 527.730).
- 4) Does not seriously interfere with, increase the cost of, or otherwise impede farming practices on adjacent lands (as defined in ORS 215.203).
- 5) Is sited on a parcel which qualifies for and is receiving one of the Oregon farm or forest tax deferral programs.

D. If road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, 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 agreement. The road use agreement may require the Applicant to agree to accept responsibility for road maintenance.

E. The forest lands to be managed by the resident of the proposed dwelling must meet the stocking and survival requirements of the Forest Practices Rules for Eastern Oregon. [OAR 629-24-402]

F. The Applicant for a Forest Management dwelling must also:

- 1) Comply with siting standards of Subsection 302.06.
- 2) Comply with fire safety design standards for roads and driveways as defined in Subsection 302.07.
- 3) Provide information regarding the condition and productivity of the lands to be managed. The plan will include a chronological description of commercial forest management activities to be undertaken by the resident(s) and estimates of yield, labor and expenses.

- 4) Submit a plot plan showing the site for the proposed dwelling.
  - 5) Pursuant to OAR 660-06-027(2), provide documentation to the Planning Department showing that the Oregon Department of Forestry has had the opportunity to review and evaluate the condition and productivity of the lands to be managed, the plans for management of the lands, estimates of yield, labor and expenses and the siting of the dwelling and related fire safety measures. The information must be sufficient to enable the Oregon Department of Forestry within 45 days to determine that:
    - a. The information describing the productivity and current condition of the forest land to be managed is complete and accurate.
    - b. Fulfillment of the forest management plan will result in use of the parcel for the required management purpose in terms of stocking, stand density and harvest.
- G. For application for a forest related dwelling on pre-existing parcels of less than 80 acres, the Applicant must document:
- 1) That the parcel is of sufficient size to demonstrate that forest crops of a commercial variety and quantity can be produced on the parcel, including but not limited to Christmas trees, posts, poles, and/or saw timber.
  - 2) That the parcel has been managed for commercial forestry as demonstrated by:
    - a. Timber tax deferral; and
    - b. Participation in a management plan approved by the State Service Forester.
  - 3) Meet standards of Section 302.03(C).



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## **ARTICLE 3: USE ZONES**

### **SECTION 302.04 SINGLE FAMILY DWELLING NOT RELATED TO FOREST MANAGEMENT**

May be established subject to the approval of the Baker County Planning Commission, upon:

- A. The receipt of information showing where the proposed dwelling is to be located within a rural fire protection district, or by showing that the Applicant has contracted for residential fire protection.
- B. Finding that the dwelling would not force a significant change in, significantly increase the costs of, or impede accepted farming or forest practices on agriculture or forest lands.
- C. Compliance with siting standards of Subsection 302.07.
- D. Compliance with the fire safety design standards for roads and driveways of Subsection 302.08.
- E. The receipt of information showing the parcel on which the dwelling would be located is not qualified for a farm or forest tax deferral. If the property does have farm/forest deferral, it shall be removed from the deferral program.
- F. A written statement recorded with the deed, or its equivalent is obtained from the landowner which recognizes the rights of forest operators to conduct forest operations consistent with the Forest Practices Act.

G. A finding that the parcel satisfies one of the following: The intent of this part of the rule is to permit non-resource development in those areas that currently present some difficulty to full-scale timber activity. Therefore, the rule allows siting of non-resource dwellings on land zoned Timber-Grazing when the soils and the surrounding parcelization supports it. To apply this criteria, the Applicant must: 1) Site the parcel on an 160-acre square on a map, where the centerpoint of the square is in the center of the Applicant's parcel. 2) If there are at least seven parcels or portions of parcels located in that 160-acre square, the Applicant may proceed with the soils analysis. [If there are less than seven parcels or portions of parcels, a non-resource dwelling will not be allowed.] 3) If there are seven or more parcels or parts of parcels, the Applicant must show that the parcel is capable of producing less than 50 cubic feet per acre per year of timber (50 cf/ac/yr). This information may be obtained from soils maps produced by the Agricultural Stabilization Service (SCS), which translates soil types into approximate timber growth rates. 4) If the soils show that the productive capacity is greater than 50 cubic feet per acre per year, the community has a stronger interest in preserving the area for timber growth. Therefore, the Applicant must show at least eleven other parcels on the 160-acre square before the non-resource dwelling is allowed. This higher standard will allow a non-forest dwelling only when existing land use conflicts preclude large-scale timber production.

1) The parcel is composed primarily of soils which are:

a. Capable of 0 to 50 cubic foot/acre/year of timber growth, and where this parcel and at least all or part of seven (7) other parcels are contained within a 160-acre square when centered on the center of the subject parcel; or

b. Capable of above 50 cubic foot/acre/year of timber, and where this parcel and at least all or part of eleven (11) other parcels exist within a 160-acre square when centered on the center of the subject parcel.

H. A finding that if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the U.S. Forest Service, then the Applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

I. The Goal 5 Elk Winter Habitat Protection Maps, as adopted by Baker County, are inventoried as to median ownership size of parcels within the areas to be protected. Where the overall median ownership (expressed in acres) of any Elk Winter Habitat Protection Plan quadrangle map is reduced by ten percent (10%) or more from the median size (calculated in the Spring of 1986 and to be calculated May 1, 1987 and every three years thereafter), the following criteria shall be applied to nonresource dwelling applications within the quadrangle map.

1) A review of ownership sizes surrounding an area proposed for a nonresource permit within protected elk winter habitat areas shall be conducted.

2) The proposed parcel shall not alter the overall land use pattern found in the area by requiring that the proposed residential parcel be as large or larger than the median ownership within at least a one-mile radius review area.

J. A finding that the parcel upon which the dwelling would be located was lawfully created before February 5, 1990 (the date Goal IV rules were established by the Land Conservation and Development Commission).





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## **ARTICLE 3: USE ZONES**

### **SECTION 302.05 CONDITIONAL USE PERMIT**

A use authorized by Subsection 302.02 may be allowed, subject to the approval of the Baker County Planning Commission, provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest and agricultural operations and to conserve values found on forest lands.

- A. A finding that 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.
- B. A finding that the proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
- C. A finding that the proposed use will not adversely affect important wildlife habitat pursuant to criteria contained within Article 6 of this Ordinance.
- D. A finding that the use is compatible with other forest uses in the nearby area, including:
  - 1) Maintenance of grazing land for livestock.
  - 2) Watershed protection.
  - 3) Soil protection from wind and water.
  - 4) Maintenance of outdoor recreational activities and related support services.

5) Maintenance of values compatible with forest uses.

6) Open space, buffers from noise, visual separation of conflicting uses.

E. A written statement recorded with the deed, or its equivalent is obtained from the landowner which recognizes the rights of forest operators to conduct forest operations consistent with the Forest Practices Act.

F. Planned access to interior tracts shall be required when dealing with road-front parcels.



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## **ARTICLE 3: USE ZONES**

### **SECTION 302.06 SITING STANDARDS FOR STRUCTURES AND DWELLINGS IN THE TIMBER-GRAZING ZONE**

These standards 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. The Baker County Planning Commission shall weigh the standards to identify the building site has the following characteristics.

A. Dwellings and structures shall be sited on the parcel so that:

- 1) They have the least impact on nearby or adjoining forest or agricultural lands.
- 2) The siting ensures that forest operations and accepted farming practices will not be curtailed or impeded.
- 3) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized.
- 4) The risks associated with wildfire are minimized.

B. The approving authority may require setbacks from adjoining properties, siting near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

C. The applicant shall provide evidence to 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.



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## **ARTICLE 3: USE ZONES**

### **SECTION 302.07 FIRE SITING STANDARDS FOR STRUCTURES AND DWELLINGS IN THE TIMBER-GRAZING ZONE**

Before a building permit can be issued for land within an inventoried forest area, the landowner shall fully tree farm an area equal to five (5) acres around the proposed dwelling site. The five acres shall be calculated as a circle with a 265 foot radius, with the dwelling as the center of the circle except when the dwelling is nearer to the ownership boundary than 265 feet. In that case, a greater radius will be required to achieve the five-acre mandate. For pre-existing, non-conforming size forest parcels of less than five acres, the entire ownership shall be fully tree farmed before zoning approval will be given for a building permit.

- A. All dwellings and structures on inventoried forest land shall be roofed with fire-retardant materials.
- B. If a water supply is available and suitable for fire protection (such as a swimming pool, pond, stream or lake), then access shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.



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## **ARTICLE 3: USE ZONES**

### **SECTION 302.08 FIRE SAFETY DESIGN STANDARDS FOR PRIVATE ROADS AND DRIVEWAYS**

Private roads and driveways shall be constructed so as to provide adequate access for fire fighting equipment. A turn-around shall be constructed that allows for either a 35-foot radius cul-de-sac or a 60-foot "T" shaped turn-around or other turn-around design acceptable to the affected fire protection district.

Public roads will be designed and constructed to conform to federal, state and local laws and regulations.



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## **ARTICLE 3: USE ZONES**

### **SECTION 302.09 PROPERTY DEVELOPMENT STANDARDS**

Applications for land divisions shall be processed subject to the provisions of Article 10 of this Ordinance and the Planning Department's notice requirements.



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## **ARTICLE 3: USE ZONES**

### **SECTION 302.10 MINIMUM PARCEL SIZES**

In the Timber Grazing zone the following minimum parcel sizes shall be required.

- A. For commercial forest/farm use pursuant to Section 302.01(A) and (G) and 302.02(E):80 acres.
- B. For non-forest/farm residential use pursuant to Section 302.04: 5 acres; except it shall be 40 acres in an area mapped as an elk winter habitat, antelope habitat or deer winter habitat. The Planning Commission may approve a division of land for a dwelling not provided in conjunction with farm/forest use if the dwelling has been approved in accordance with Section 301.06 and 302.04 of this Ordinance.
- C. The minimum parcel size may be waived to allow a division of forest land involving a dwelling existing prior to January 25, 1990 (the date that LCDC adopted major amendments to Goal 4) provided that:
  - 1) The new parcel containing the dwelling is no larger than 5 acres.
  - 2) The remaining forest parcel, not containing the dwelling, meets the minimum land division standards of this zone or is consolidated with another parcel which together meet the minimum land division standards of this zone.
- D. Uses described in Subsection 302.02 and related partitions shall be subject to a public hearing, the parcel shall be larger the minimum size necessary for the use and shall also be subject to the provisions of Subsection 302.05.

**\*\*This ordinance was adopted to conform with Goal 4 Forest Rules adopted by the Land Conservation**



and Development Commission. 1/6/93. Ord. 92-07.



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## **ARTICLE 3: USE ZONES**

### **SECTION 303 RURAL RESIDENTIAL ZONE (RR-5)**

In an RR-5 zone the following regulations shall apply.



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## **ARTICLE 3: USE ZONES**

### **SECTION 303.01 PERMITTED USES**

In an RR-5 zone the following uses and their accessory uses shall be permitted outright.

- A. Single-family dwellings.
- B. Two family dwellings (duplex).
- C. Farm use, subject to animal concentration restrictions in Section 407.
- D. Public or private parks or playgrounds including accessory buildings.
- E. Local distribution utility facilities as defined in Section 108(B) of this Ordinance.
- F. Temporary mobile home placement (Family Hardship), subject to provisions of Section 404.



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## **ARTICLE 3: USE ZONES**

### **SECTION 303.02 CONDITIONAL USES**

In an RR-5 zone the following uses and their accessory uses may be permitted when authorized in accordance with Article 6 of this Ordinance.

- A. Home occupations.
- B. Churches.
- C. Public or private schools.
- D. Governmental or non-profit organizations, structures or uses including community centers, libraries and fire stations.
- E. Medical and dental clinics, hospitals, rest homes, or nursing homes.
- F. Major utility facilities as defined in Section 108(B) of this Ordinance.
- G. Convenience stores.
- H. Multi-family dwellings.
- I. Subdivisions, Planned Unit Developments, and Mobile Home Developments including Mobile Home Subdivisions, Mobile Home Parks, Recreational Vehicle Parks and Mobile Home Planned Unit Developments; subject to the requirements of each of those actions in this Ordinance.



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## **ARTICLE 3: USE ZONES**

### **SECTION 303.03 MINIMUM LOT SIZE**

In the RR-5 Zone, the minimum lot or parcel size shall be no less than five acres.



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## **ARTICLE 3: USE ZONES**

### **SECTION 303.04 LIMITATIONS ON USES**

In the Rural Residential Zone, where development is to occur adjacent to land zoned Surface Mining.

A. Notwithstanding other provisions of the Baker County Comprehensive Plan and the Baker County Zoning and Subdivision ordinance, the following uses are not allowed within 1/4 mile of an area zoned Surface Mining.

- 1) Public or private schools.
- 2) Rest homes or nursing homes.
- 3) Other activities which would be adversely affected by dust/noise originating from surface mining activities.

B. 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.

C. The developer of property adjacent or immediately across the road from a surface mining zone shall not construct a dwelling or other living quarters less than 100 feet from the surface mining property line.

D. Before a permit for development of lands located within a 1/4 mile radius of a Surface Mining Zone is issued, the owner of such land shall record an Acknowledgement of Adjacent Land Use (AALU) form with the property deed. The AALU form will be provided to the property owner by the Planning Department and shall be recorded with the Baker County Clerk. By filing this acknowledgement the

property owner recognizes the activity and the right of the extraction process to occur on lands zoned Surface Mining.

## SECTION 304 RECREATION RESIDENTIAL ZONE (RR-1)

In the RR-1 zone the following regulations shall apply.



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## **ARTICLE 3: USE ZONES**

### **SECTION 304.01 PERMITTED USES**

In the RR-1 Zone the following uses and their accessory uses shall be permitted outright.

- A. Public or private parks or playgrounds.
- B. Dwellings including recreational dwellings.
- C. Docks and other non-commercial water-based recreational facilities.
- D. Farm use, subject to animal concentration restrictions in Article 4, Section 407 of this Ordinance.
- E. Local distribution utility facilities as designed in Section 108(B) of this Ordinance.
- F. Mobile Home Parks.
- G. Recreational Vehicle Parks.
- H. Temporary Mobile Home Placement (Family Hardship), subject to provisions of Section 404





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## **ARTICLE 3: USE ZONES**

### **SECTION 304.02 CONDITIONAL USES**

In the RR-1 zone the following uses may be permitted when authorized in accordance with provisions of Article 6 of this Ordinance.

- A. Major utility facilities as defined in Section 108(B) of this Ordinance.
- B. Customary retail and service establishments necessary to serve the recreational needs of the area.
- C. Planned Unit Developments.
- D. Mining.



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## **ARTICLE 3: USE ZONES**

### **SECTION 304.03 MINIMUM LOT SIZE**

The minimum lot size in the RR-1 zone shall be as determined by the Department of Environmental Quality to be necessary for the protection of public health, but shall be no less than 1 acre, except in subdivisions identified as sites 36, 66 and 72, wherein the lot sizes shall be as originally platted pursuant to policy 2.B.4 of the County's Comprehensive Plan.

### **SECTION 305 RURAL SERVICE AREA ZONE (RSA)**

In an RSA zone, the following regulations shall apply.



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## **ARTICLE 3: USE ZONES**

### **SECTION 305.01 PERMITTED USES**

In an RSA zone the following uses and their accessory uses shall be permitted outright.

- A. Single family residential dwellings.
- B. Churches.
- C. Public or private schools.
- D. Local distribution utility facilities as described in Section 108(B) of this Ordinance.
- E. Temporary Mobile Home placement (Family Hardship), subject to provisions of Section 404.



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## **ARTICLE 3: USE ZONES**

### **SECTION 305.02 CONDITIONAL USES**

In an RSA zone the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 6 of this Ordinance and the provisions of Subsection 305.03 of this Section.

- A. Implement dealerships, agricultural machine repair, gas service stations, grain storage, and other services related to agriculture along with single family dwellings for management of the business if desired.
- B. Convenience food stores, restaurants, or similar retail outlets which offer direct service to residents of the surrounding rural area, along with a single family dwelling for management of the business if desired.
- C. Home occupations.
- D. Major utility facilities as described in Section 108(B) of this Ordinance.



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## **ARTICLE 3: USE ZONES**

### **SECTION 305.03 ADDITIONAL CRITERIA FOR CONDITIONAL USES**

In addition to the requirements of Article 6, those Conditional Uses listed in Subsection 305.02 of this Section must meet the following requirement.

A. The proposed use is intended as a valid service contribution to the rural area.



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## **ARTICLE 3: USE ZONES**

### **SECTION 305.04 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 7500 square feet.



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## **ARTICLE 3: USE ZONES**

### **SECTION 306 PRIMARY FOREST ZONE (PF)**

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. 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. Private lands currently lying within U.S. Forest Service boundaries are subject to the provisions of the Timber Grazing (TG) or Mineral Extraction (ME) Zone.



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## **ARTICLE 3: USE ZONES**

### **SECTION 307 MINERAL EXTRACTION ZONE (ME)**

The Mineral Extraction Zone only applies to lands within Baker County that have been inventoried as patented mining claims in the Goal 5 element of the Comprehensive Plan. In the ME Zone the following regulations shall apply.





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## **ARTICLE 3: USE ZONES**

### **SECTION 307.01 PERMITTED USES**

In the ME Zone the following uses and their accessory uses shall be permitted outright.

- A. Mining.
- B. Non-residential structures accessory to mining operations.
- C. Production, harvesting and processing of forest products.
- D. Non-residential structures accessory to forest operations.
- E. Local distribution utility facilities as defined in Section 108(B) of this Ordinance.
- F. 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-half mile of a residential zone.



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## **ARTICLE 3: USE ZONES**

### **SECTION 307.02 CONDITIONAL USES**

In the ME Zone the following uses may be permitted.

- A. 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 Article 6 of this Ordinance.
  
- B. 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-half mile of a residential zone.



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## **ARTICLE 3: USE ZONES**

### **SECTION 307.03 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 it shall be the same as the original patent or 40 acres, whichever is smaller, in an area mapped as elk winter habitat, antelope habitat or deer winter habitat.



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## **ARTICLE 3: USE ZONES**

### **SECTION 308 SURFACE MINING ZONE (SM)**

This 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 5 element of the County's Comprehensive Plan. In the SM Zone, the following regulations shall apply.



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## **ARTICLE 3: USE ZONES**

### **SECTION 308.01 PERMITTED USES**

In the SM Zone the following uses and their accessory uses are permitted outright.

- A. Gravel extraction, crushing, screening and storage.
- B. Asphaltic compounding.
- C. Local distribution utility facilities as defined in Section 108(B) of this Ordinance.



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## **ARTICLE 3: USE ZONES**

### **SECTION 308.02 CONDITIONAL USES**

In the SM Zone, the following use may be established subject to the provisions of Article 6 of this Ordinance.

- A. Watchman's quarters.
- B. Extraction and processing metallic resources.



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## **ARTICLE 3: USE ZONES**

### **SECTION 308.03 MINIMUM LOT SIZE**

- A. Outright uses listed in Section 308(A) and (B) above shall require a minimum of five acres.
- B. Lot area for uses listed in Subsection B of this Section shall be determined by the Planning Commission considering DEQ requirements and the area needed to satisfy conditions of Article 6 of this Ordinance.



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## **ARTICLE 3: USE ZONES**

### **SECTION 308.04 LIMITATION ON USES**

A. Notwithstanding any other provision of the Baker County Comprehensive Plan and Zoning Ordinance, after January 1, 1994, no new surface mining zones shall be established within a 1/4 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.





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## **ARTICLE 3: USE ZONES**

### **SECTION 309 TOURIST COMMERCIAL ZONE (TC)**

In the TC Zone the following regulations shall apply.



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## **ARTICLE 3: USE ZONES**

### **SECTION 309.01 PERMITTED USES**

In the TC Zone the following uses and their accessory uses shall be permitted outright.

- A. Bus terminals.
- B. Eating and/or drinking establishments.
- C. Public buildings or use.
- D. Commercial dwellings.
- E. Service stations.
- F. Travel trailer parks and RV parks.
- G. Truck stops.
- H. Farming, except for feedlots or sales yards.
- I. Local distribution facilities as defined in Section 108(B) of this Ordinance.
- J. Any business or activity of such nature and location that it is primarily to provide service, lodging, or products to non-resident travelers on interstate freeways or interstate highways, and which business or activity cannot economically exist or operate without serving that class of persons.



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## **ARTICLE 3: USE ZONES**

### **SECTION 309.02 LIMITATIONS ON USES**

In the TC Zone, a development plan which proposes the use for the property shall be submitted to the Planning Office. 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.



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## **ARTICLE 3: USE ZONES**

### **SECTION 310 GENERAL COMMERCIAL ZONE (GC)**

In the GC Zone the following regulations shall apply.



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## **ARTICLE 3: USE ZONES**

### **SECTION 310.01 PERMITTED USES**

In the GC Zone the following uses and their accessory uses shall be permitted outright.

- A. Retail sales and service establishments necessary for public service.
- B. Commercial dwellings.
- C. Travel trailer parks; RV spaces.
- D. Public or private parks or playgrounds.
- E. Farm use, subject to livestock concentration limitations found in Article 4, Section 407 of this Ordinance.
- F. Local distribution utility facilities as defined in Section 108(B) of this Ordinance.



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## **ARTICLE 3: USE ZONES**

### **SECTION 310.02 CONDITIONAL USES**

In the GC Zone, the following Conditional Uses may be allowed, subject to the provisions of Article 6 of this Ordinance.

- A. Truck terminals.
- B. Watchman's quarters.
- C. Major utility facilities as defined in Section 108(B) and 108 of this Ordinance.



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## **ARTICLE 3: USE ZONES**

### **SECTION 310.03 LIMITATIONS ON USE**

In the GC Zone, a development proposal (plan) which proposes the use for the property shall be submitted to the Planning Office. 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.



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## **ARTICLE 3: USE ZONES**

### **SECTION 311 COMMERCIAL INDUSTRIAL ZONE (CI)**

In the CI Zone the following regulations shall apply.





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## **ARTICLE 3: USE ZONES**

### **SECTION 311.01 PERMITTED USES**

In the CI Zone the following uses and their accessory uses shall be permitted outright.

- A. Single-family dwellings.
- B. Public or private schools.
- C. Farm use, subject to livestock concentration limitations found in Article 4, Section 407 of this Ordinance.
- D. Public or private parks or playgrounds or community centers.
- E. Churches.
- F. Local distribution utility facilities as defined in Section 108(B) of this Ordinance.



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## **ARTICLE 3: USE ZONES**

### **SECTION 311.02 CONDITIONAL USES**

In the CI Zone the following Conditional Uses may be allowed, subject to the provisions of Article 6 of this Ordinance.

- A. Retail sales and service establishments necessary for public service.
- B. Duplexes; Multi-family dwellings.
- C. Commercial dwellings.
- D. Travel trailer parks/RV parks.
- E. Truck terminals.
- F. Mobile home parks.
- G. Home occupations.
- H. Major utility facilities as defined in Section 108(B) and 108 of this Ordinance.
- I. 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.

## J. Wrecking yards.



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## **ARTICLE 3: USE ZONES**

### **SECTION 311.03 LIMITATIONS ON USE**

In the CI Zone, a development proposal (plan) which proposes the use for the property shall be submitted to the Planning Office. 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.



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## **ARTICLE 3: USE ZONES**

### **SECTION 312 AIRPORT DEVELOPMENT ZONE (AD)**

In the AD Zone the following regulations shall apply.



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## **ARTICLE 3: USE ZONES**

### **SECTION 312.01 PERMITTED USES**

In the AD Zone, the following uses and their accessory uses are permitted outright.

- A. Flight and flying services, passenger services, surveying and engineering.
- B. Aviation fuel sales, air frame and engine repair and maintenance.
- C. Hangars and warehouses.
- D. Farming, except for feedlots and except for those agricultural uses that foster an increase of wildfowl.
- E. Local distribution utility facilities as defined in Section 108(B) of this Ordinance.



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## **ARTICLE 3: USE ZONES**

### **SECTION 312.02 CONDITIONAL USES**

In the AD Zone, the following uses may be permitted subject to the provisions of Article 6 of this Ordinance.

- A. Retail sales of aircraft and related equipment, agricultural, irrigation, and chemicals.
- B. Motel/Restaurant, gasoline sales, convenience sales.
- C. Parking lots; residences for security, fire crew and night service.
- D. Manufacturing, compounding, fabricating, processing, repairing, packing or storage if other than allowed by above as an outright use. 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.
- E. Motor sports events.



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## **ARTICLE 3: USE ZONES**

### **SECTION 312.03 LIMITATIONS ON USES**

All uses listed in subsections 312.01 and 312.02 of the Airport Development Zone 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.





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## **ARTICLE 3: USE ZONES**

### **SECTION 313 AIRPORT OVERLAY ZONE (AO)**

Agricultural lands located in the Airport Overlay Zone as adopted in the Airport Master Plan, Baker Municipal Airport, December 1978, shall be limited to non-structural uses or structural uses not intended for human occupancy.



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## **ARTICLE 3: USE ZONES**

### **SECTION 314 INDUSTRIAL ZONE (I)**

In the I Zone the following regulations shall apply.



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## **ARTICLE 3: USE ZONES**

### **SECTION 314.01 PERMITTED USES**

In the I Zone the following uses and their accessory uses shall be permitted outright.

- A. Manufacturing, compounding, fabricating, processing, repairing, packaging, storage and warehousing.
- B. Farming.
- C. Farm, truck and heavy equipment sales and service.
- D. Truck terminal.
- E. Welding and machine shop.
- F. Utility facilities including local distribution utility facilities as defined in Section 108(B) and 108.
- G. Metallic and non-metallic mineral recovery, processing and storage.
- H. Storage and processing of agricultural products.



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## **ARTICLE 3: USE ZONES**

### **SECTION 314.02 CONDITIONAL USES**

In the I Zone the following uses may be permitted subject to the requirements of Subsection 314.03 of this Section.

- A. Watchman's quarters.
- B. Any process, storage or manufacturing which emits odors, fumes, gases or treated liquids.
- C. Wrecking/Junk Yard.
- D. Livestock feedlots and sales yards.
- E. Quarters/temporary housing in conjunction with industrial use.



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## **ARTICLE 3: USE ZONES**

### **SECTION 314.03 CRITERIA FOR CONDITIONAL USE**

In addition to the requirements of Article 6 of this Ordinance, those Conditional Uses listed in Subsection 314.02 of this Section must meet the following criteria, if applicable.

- A. State and federal agencies concerned with the emissions which are proposed must be notified and shall be involved if they wish in the planning of the proposal.
- B. The proposed use must be able to control the emissions to the extent that adjacent property is not substantially inhibited from being utilized for its designated purpose.



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## **ARTICLE 3: USE ZONES**

### **SECTION 314.04 LIMITATIONS ON USES**

In addition to Subsection 314.03 of this Section, the uses of this Section 314 shall be subject to a development proposal. A plan which proposes the use for the property shall be submitted to the Planning Office. 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 I 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 Comprehensive Plan).



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## **ARTICLE 3: USE ZONES**

### **SECTION 315 SUMPTER VALLEY MANAGEMENT AREA ZONE (SVMA)**

Lands in the Sumpter Valley Management Area shall be administered in accordance with "The Sumpter Valley Dredge Tailing Management Plan" and its implementing Ordinance, "The Sumpter Valley Dredge Tailing Ordinance," both of which were enacted on April 29, 1979.



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## **ARTICLE 3: USE ZONES**

### **SECTION 316 RESERVED FOR FUTURE EXPANSION**





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## **ARTICLE 3: USE ZONES**

### **SECTION 317 SUMPTER VALLEY OVERLAY ZONE (SVOZ)**

Lands in the SVOZ Zone shall be administered in accordance with the RR-5 Zone with the added feature of being able to conduct mining as an outright use on all previously mined lands.



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## **ARTICLE 3: USE ZONES**

### **SECTION 318 LIMITED USE COMBINING ZONE (LU)**

In any limited use combining zone (LU), the requirements and standards of this section shall apply in addition to those specified in this ordinance for the underlying zone and any other applicable combining zones. In the event of a conflict between the requirements and standards of this section and those of the underlying zone or other applicable combining zones, the provisions of this section shall govern.

#### **A. PURPOSE**

- 1) The purpose of the LU 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.
- 2) The LU 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 (1) (a), an "irrevocably committed" exception under ORS 197.732 (1) (b) or a "reasons" exception under ORS 197.732 (1) (c).
- 3) The LU Zone, when adopted, shall carry out the requirement of Oregon Administrative Rule 660-04-018 that where a goal exception is taken, permitted uses shall be limited to those uses justified by the exception statement.

#### **B. COMBINING ZONE REQUIREMENTS**

When the LU 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 LU Zone. Any change in those uses and general activities must be made through the plan/land use regulation amendment process.

### C. PROCEDURES

The LU Zone shall be applied through the plan amendment and rezoning process at the time the underlying plan and/or zone designation is being changed.

### D. LIMITATIONS ON USES

The following limitations shall apply to the underlying zone when the LU Zone is applied. In all cases, the Hearings Body shall establish that:

- 1) 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.
- 2) A review of all zones in Ordinance 83-3 demonstrates that no existing zone adequately limits the uses and general activities.
- 3) The LU Zone, when applied to the underlying zone, is consistent with the Comprehensive Plan and other applicable policies of the County.

### E. ADOPTION

The ordinance adopting the underlying zone and the LU 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 LU Zone.

### F. OFFICIAL PLAN/ZONING MAP

The official plan/zoning map shall be amended to show a LU suffix on any parcel where the LU Zone has been applied.

### G. SITE PLAN REQUIREMENT

- 1) In addition to limiting the uses in the underlying zone where the LU 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.
- 2) The process for reviewing the site plan shall be described at the time of the LU Zone application. Site plan requirements may be added by specific reference in the LU adopting ordinance. Specifications and standards of the underlying zones remain in effect unless specifically altered by the site plan approval. Separate site plan approval shall not be required for any uses subject to the conditional use permit.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 401 SETBACKS AND FRONTAGE REQUIREMENTS**

#### **A. APPLICATION**

These requirements shall apply to all structures except for adjustments permitted in Section 402. See also Section 407(B).

#### **B. STANDARDS**

- 1) The minimum land width at the front building lines shall be 220 feet.
- 2) No part of a structure shall be constructed or maintained closer than 60 feet to the center line 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) No part of a building or other structure requiring a building permit or farm use affidavit or a road to access such development, shall be constructed within 50 feet of a naturally occurring riparian area, bog, marsh or waterway.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 402 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, ditches, roads, or streets, bridges, and fences. See Section 404.
- 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.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 403 SIGNS**

In addition to sign regulations set forth in a specific zone, 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.

- A. All outdoor advertising signs shall be in compliance with the provisions of ORS Chapter 377 when applicable.
- B. No outdoor advertising sign permitted by ORS Chapter 377 shall be erected within 100 feet of a residential dwelling without written consent of the owner.
- C. 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.
- D. No sign shall cause glare, distraction, or other driving hazards within a street or road right-of-way.
- E. Light from a sign shall be directed away from a residential use or zone.
- F. Sign size shall meet the following standards unless special permission is granted by the Planning Commission.

1) Identification signs shall not exceed a total of four square feet of display surface per side for home occupation.

- 2) One temporary sign, not exceeding 32 square feet in area, shall be allowed per tract of land or subdivision advertising the sale of the tract or the lots.
  
- 3) A sign not exceeding 16 square feet per side directing vehicular traffic to places of interest to the public, such as tourist accommodations and recreation sites which would otherwise be difficult to find, shall be permitted subject to the provisions of Article 6.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 404.01 TEMPORARY MOBILE HOME PLACEMENT (Family Hardship)**

This section provides a means for modifying mobile home placement requirements in cases where hardship warrants special consideration. The Planning/Community Development Director may authorize the placement of one mobile home 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. [Ref. ORS 215.283(2)(k) (1993)] As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons [OAR 660-06-025(4)(5)]. Nothing in this section shall be construed to require the granting of such temporary mobile home placement.





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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 404.02 CIRCUMSTANCES FOR GRANTING A TEMPORARY MOBILE HOME PLACEMENT**

A mobile home may be temporarily located on a building site or lot where there exists a personal, but not necessarily financial hardship on the part of the applicant whereby it is necessary to have someone living on the same premises as the applicant's dwelling or mobile home. The installation of a separate subsurface sewage disposal system for a temporary mobile home shall be allowed but shall not become justification for converting a temporary mobile home to permanent status.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 404.03 THE FOLLOWING CONDITIONS SHALL BE APPLIED BY THE PLANNING/COMMUNITY DEVELOPMENT DIRECTOR IN EVALUATION AN APPLICATION FOR A TEMPORARY MOBILE HOME PLACEMENT**

- A. Approval shall be for a period of one year which may be renewed, or for a temporary but undefined duration. However, the mobile home shall be removed 30 days after the original need has ceased.
- B. The Planning/Community Development Director may require a doctor's certification for applications based upon dependency due to medical reasons.
- C. The location of a temporary mobile home on a parcel of land shall not be considered a separate dwelling site and the lot area, frontage and access requirements of the applicable zone shall not apply.
- D. Guarantees in evidence of compliance with conditions may be required.
- E. In granting a temporary mobile home placement the Planning/Community Development Director may impose additional reasonable conditions to meet the purposes of this section and the Goals and policies of the Comprehensive Plan.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 406 OFFSTREET PARKING REQUIREMENTS**

At the time of construction, reconstruction or enlargement of a structure, or when a use is changed in any zone subject to Site Plan Review, offstreet parking space shall be provided in the amount necessary to accommodate the use or structure. Location of these offstreet spaces shall take into consideration and not interfere with snow removal practices and safe driving conditions along roads and highways in Baker County.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 407 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, other than their young under the age of six months, on a lot 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 shall not exceed 50 mature animals per one acre.
- 5) Pigs: two mature animals per one acre.

B. Animal runs or barns, 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 Section 401.

C. Animals, chicken and/or fowl shall be properly caged or housed and proper sanitation shall be maintained at all times. All animal or poultry food shall be stored in metal or other rodent-proof receptacles except hay and similar bulky materials.

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.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 408 ACCESSORY FARM DWELLINGS**

An accessory farm dwelling shall be in accordance with the following requirements.

A. Application for an accessory farm dwelling shall be accompanied by a written statement from the applicant which contains the following information at a minimum.

- 1) The amount of land either owned or leased which is farmed by the applicant and the location of said property.
- 2) The number of existing accessory farm dwellings which presently service the land.
- 3) The intended location of the accessory dwelling and the nature of the land at this location.
- 4) A general statement concerning the need for the requested dwelling.

B. A decision to approve or disapprove an accessory farm dwelling shall be made by the Planning Director and shall be subject to appeal procedures described in Section 1104 of this Ordinance.

C. To be considered for placement of an accessory farm dwelling, a farm unit shall contain, at a minimum, the amount of land required as a minimum lot in the farm use zone in which the majority of the applicant's land is located. On appeal, if it is demonstrated to the Planning Commission that the owner of a smaller land holding requires the assistance of an accessory dwelling and can support such a dwelling, the Planning Commission may allow such placement after construction of findings which support that conclusion.

- D. An accessory farm dwelling shall not be partitioned from the farm parcel (ORS 215.263(7)), except as otherwise authorized by this Ordinance.
- E. Accessory farm dwelling applicants shall be encouraged to utilize mobile homes.
- F. A mobile home permitted under this Section shall have a minimum floor area of 500 square feet.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 410 SPECIAL HAZARD PROCEDURES**

A. When during the planning, sanitation or building permit sign-off procedure the Planning Director, by use of the Federal Insurance Administration (FIA) flood hazard maps and SCS soil maps, determines that unusual soil or flooding conditions present a hazard to the structure or land use being proposed, such conditions shall be noted on the permit application and brought to the attention of the applicant. These conditions include, but are not limited to: flood plain, slope, soil instability, shrink-swell, and high water table.

B. For Exceptions areas, any application for a building permit in flood hazard areas or upon soils judged unstable by SCS and inventoried as such by the County shall be denied. The Planning Office shall inform the applicant of the reasons for denial within 30 days. Before a building permit can subsequently be authorized, the County shall require submittal of a method and plan to the Planning Commission to ensure a reasonably safe building and site during and after construction; such a plan must be endorsed by an appropriate professional such as a registered, professional engineer, licensed in the State of Oregon or a professional engineer employed by a federal agency who is not required to be licensed in the State of Oregon, or a registered surveyor or hydrologist. If construction has already begun, construction shall not proceed until certification is received.

C. For structures in resource zones, the Planning Office will provide the information regarding inventoried hazardous soil conditions in an advisory capacity, on the premise that resource lands offer a variety of building sites and that a safer site will be selected.

D. In addition to hazard procedures, described above, the Flood plain Ordinance of Baker County,



(Ordinance No. 84-3), will be implemented wherever applicable.

E. Requirements made pursuant to this Section may be appealed in conformance with Section 1104 of this Ordinance.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 411 COORDINATION OF PERMITS REQUIRED**

- A. The County will not knowingly issue permits, or distribute services such as road maintenance beyond historical levels of maintenance to owners/occupants of housing or accessory uses not lawfully established, that is, without County zoning, Department of Environmental Quality (DEQ), and/or State Building Codes Agency (BCA) permits, except as otherwise provided for in this Ordinance.
- B. No permits shall be issued by the State or County Building Codes Official, DEQ Official, or County Sanitarian for the construction, reconstruction, alteration, or change of use of a structure not lawfully established, or for a lot or parcel that is not a legal, discrete lot or parcel.
- 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. 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.
- E. Nothing in this Ordinance shall prevent the re-connection of existing electrical services which have been temporarily disrupted.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 412 HISTORIC/CULTURAL AND NATURAL AREA PROTECTION PROCEDURE**

This Section shall not apply to sites designated as 3A or 3B sites, pursuant to OAR 660-16-010 (1) and (2), respectively. Major alteration or destruction of a Natural Area designated as 2A or 3C shall first require an ESEE analysis, justification, and Plan Amendment.

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:

- A. If the change will destroy the integrity of the resource.
- B. If the proposal can be modified to eliminate its destructive aspects.
- C. If any agency or individual is willing to compensate the resource owner for the protection of the

resource.

D. If the resource can be moved to another location.

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.

#### 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.

#### 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 man's 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.

#### 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.

#### 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 with the consent of their supervisors, 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.



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## **ARTICLE 4: SUPPLEMENTARY PROVISIONS**

### **SECTION 413 FARM RELATED DWELLING NOTIFICATION PROCEDURES**

Farm related dwellings shall be allowed subject to the following criteria.

A. The parcel size meets or exceeds the minimum parcel size established by Ordinance 83-3 as set forth in Article 3, Section 301.05(D).

B. The parcel is currently employed for farm use as defined by ORS 215.203. Land is not in farm use unless the day-to-day activities on the subject land are principally directed to the farm use of the land. Farm dwellings cannot be authorized before establishment of farm uses on the land.

C. Pursuant to Doughton vs. Douglas County, OR APP 198 (1987), before giving final approval for a farm-related dwelling, the County shall give notice to adjacent landowners and an opportunity for them to request a hearing. Such notice and hearing shall be as authorized by Ordinance 83-3, Article 11, Administrative Provisions.

D. Notwithstanding the preceding paragraph, Baker County shall recognize the replacement of a primary farm dwelling that has been destroyed or converted to non-occupancy as an outright use, with the following two provisions:

- 1) The dwelling to be replaced was legally established.
- 2) Such replacement shall occur within one calendar year of the last documented occupancy of the dwelling being replaced.



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## **ARTICLE 5: EXCEPTIONS**

### **SECTION 501 NON-CONFORMING USES**

A. Subject to the provisions of this Section 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. If a non-conforming use is discontinued for a period of one year, further use of the property shall conform to this Ordinance.

C. If a non-conforming use is replaced by another use, the new use shall conform to this Ordinance.

D. 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. 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.



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## **ARTICLE 5: EXCEPTIONS**

### **SECTION 502 GENERAL EXCEPTIONS TO LOT SIZE REQUIREMENTS**

A. Except in a resource zone, if a legally created lot or parcel exists as recorded in the office of the County Clerk prior to the passage of this Ordinance on March 9, 1984, and has an area or dimension which does not meet the lot or parcel size requirements of the zone in which the property is located, the lot or parcel may be occupied by a use permitted in the zone subject to the other requirements of that zone, including but not limited to requirements for sanitation, setbacks, and off-street parking, provided however, that if there is an area deficiency, residential use shall be limited to a single-family dwelling.

B. Any existing lot or 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 or 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.

C. Minimum requirements relative to lot or parcel size, where applicable, shall be considered as standard metes and bounds land Section divisions. Lot or parcel sizes may therefore, be smaller than set forth in this Ordinance if a Section acreage reduction is due to a U.S. Public Lands survey adjustment.





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## **ARTICLE 5: EXCEPTIONS**

### **SECTION 603 STANDARDS FOR SELECTED CONDITIONAL USES**

A Conditional Use shall comply with the standards of the zone in which it is located and with the standards and conditions set forth in this Section.



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## **ARTICLE 5: EXCEPTIONS**

### **SECTION 603.01 CHURCH/HOSPITAL/NURSING HOME/MEDICAL CLINIC/ CONVALESCENT HOME/SCHOOL/GOVERNMENTAL/NON-PROFIT ORGANIZATION STRUCTURES**

These uses may be authorized as a Conditional Use only after consideration of the following factors.

- A. Sufficient area provided for the building, required yards and offstreet parking (related structures and uses such as parsonage, parochial school or parish house are considered separate principal uses and additional lot area shall be required therefore).
- B. The proposed site shall be in appropriate geographical relationship to the service area.
- C. There shall be adequate demonstration of public need for the proposed use and consideration of the expected growth of the service area.
- D. Adequacy of access to and from principal streets, together with the probable effect on the traffic volumes of abutting and nearby streets.
- E. These uses and their related buildings shall be at least 30 feet from the side and rear lot line. See also Section 401 of this Ordinance.



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 601 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES**

A. A Conditional Use listed in this Ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this Ordinance and this Article by action of the Planning Commission for each of the following actions.

- 1) Permitting a new Conditional Use.
- 2) Modifying an existing conditional use, or nonconforming use.
- 3) Reactivating a conditional use that has been interrupted or abandoned for a period of one year or more.

B. Surface mines whose 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.

C. The lawful use of any building, structure or land at the time of the enactment or Amendment of any zoning Ordinance or regulation may be continued as a non-conforming use. Reasonable alteration of any such use may be permitted to continue the use. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. A change of ownership or occupancy shall be permitted. In dealing with non-conforming and preexisting conditions, any change in the use, in the lot area, or alteration of the structure, shall conform to the requirements for a Conditional Use. Minor improvement or betterments of existing State Park facilities are excluded from Planning Commission review.

D. Upon adoption of findings relating to the need for additional requirements, the Commission may impose additional conditions which carry out the purpose and intent of the conditions which are specified in Section 602(E).



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 602 STANDARDS FOR GRANTING A CONDITIONAL USE**

To determine whether a Conditional Use proposal shall be approved or denied, the Commission shall find that the following standards, where applicable, are met.

- A. The proposal will be consistent with the Comprehensive Plan and objectives of this Zoning and Subdivision Ordinance and other applicable policies of the County.
- B. 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.
- C. 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.
- D. The proposal will preserve assets of particular interest to the community.
- E. In permitting a new Conditional Use or the alteration of an existing Conditional Use, the Planning Commission may impose in addition to those standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interests of the surrounding area or the County as a whole. These conditions may include, but are not limited to, the following:
  - 1) Increasing the required lot size or yard dimension.

- 2) Limiting the height, size or location of buildings.
- 3) Controlling the location and number of vehicle access points.
- 4) Increasing the street width.
- 5) Increasing the number of required offstreet parking spaces.
- 6) Limiting the number, size, location and lighting of signs.
- 7) Requiring diking, fencing, screening, buffering through the use of increased setbacks, landscaping or other means to protect adjacent or nearby property.
- 8) Designating sites for open spaces.
- 9) Limiting the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibrations, air pollution, glare and odor.



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 603.02 MOBILE HOME PARKS/RECREATIONAL VEHICLE PARKS/ TRAVEL TRAILER PARKS/RECREATIONAL USES**

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 State Health Division regulations.
- B. The proposed unit shall be in appropriate geographic relationship to the area which it is intended to serve.
- C. There shall be a determination of need for the proposal based upon existing or foreseeable demand for the service and a survey of the existing supply.
- D. Special consideration shall be given to the screening of light and noise from surrounding property.
- E. Adequate access from principal streets shall be provided.
- F. Special consideration shall be given to the adequacy of public facilities and services, specifically, sanitary dumping stations, sewage disposal facilities, and water supply facilities.



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 603.03 HOME OCCUPATIONS**

The following standards shall be used to determine if a proposed accessory use qualifies as a home occupation.

- A. The home occupation will be an accessory use so located and conducted that the average neighbor under normal circumstances would not be aware of its existence other than for a sign permitted under Section 403 of this Ordinance.
- B. Any need for parking created by the conduct of the home occupation shall be met offstreet in a location other than in the required front yard setback.





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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 603.04 MINING/QUARRYING/OTHER EXTRACTION ACTIVITY**

Extraction of resources may be allowed as a Conditional Use when in compliance with the following.

A. Plans and specifications submitted to the Planning Commission for approval must contain sufficient information to allow the Planning Commission to consider and set standards pertaining to the following.

- 1) The most appropriate use of the land.
- 2) Setback from the property line.
- 3) The protection of pedestrians and vehicles through the use of fencing, screening and setbacks.
- 4) The protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants.
- 5) The prevention of the collection and stagnation of water of all stages of the operation.
- 6) 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 and the Department of Environmental Quality.



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 603.05 BIG GAME FEEDING STATIONS**

#### **A. Permanent Feeding Stations - Approval Standards (criteria)**

Permanent feeding stations may be allowed as a Conditional Use when in compliance with the following standards.

##### **1) The feeding station shall be located on:**

a. Federal lands wherever suitably located to provide feeding sites to minimize winter damage from big game. 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. An area inventoried as winter game habitat.

##### **2) The applicant shall demonstrate the following:**

a. Other less intrusive management techniques, for example hazing, fencing, hay stack panels and trapping/removal have been examined and will not solve the identified problems.

b. Compliance with the standards, criteria and other requirements of any feeding station facilities plan adopted by the Oregon Department of Fish and Wildlife.

c. Compliance 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:

- i) number of animals;
- ii) topography as it relates to providing cover and bedding areas;
- iii) thermal cover;
- iv) bedding areas;
- v) hiding cover;
- vi) access; and
- vii) proximity to public lands.

e. The applicant shall describe which of ODFW's 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.

f. 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.

#### B. Emergency Feeding Stations - Approval Standards (criteria)

1) Written notice will be provided to the Baker County Planning Office as to the location of emergency feeding stations or feeding sites on private or public land, said notice to be provided within 10 days of the establishment of said feeding station. This information will be accumulated and utilized as part of the data collection, monitoring and analysis referenced elsewhere in the County's ongoing Goal 5 process. After notification of the siting of an emergency feeding station, the Planning Office will send written notice of that siting to abutting landowners and operators. Upon written request of any abutting landowner within ten days of receipt of notice, a public hearing will be scheduled for review and approval or disapproval of the feeding site. The emergency use shall be allowed to continue until the outcome of the public hearing. 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 (for example, hazing and fencing) have been utilized and have not solved the identified problem.

2) Emergency feeding stations in existence at the time of acknowledgment of this Ordinance shall be brought before the Planning Commission before the next feeding season for review and disposition. It is the intent of this section to prevent existing authorized or unauthorized feeding stations on privately owned land from continuing as "grandfathered" uses. The Sorenson and Auburn stations, located on public land, are recognized as preexisting, permanent sites and will be considered as "grandfathered."

#### C. Conditions of Approval

1) 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 603.05(a) of this Ordinance.

2) The County shall review the status of each feeding station once each year at the County Staff or Planning Commission level and shall make a report to the County Court on whether the conditions of approval have been or are being satisfied.



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 603.06 MAJOR UTILITY FACILITIES**

When dealing with applications for major utility facilities (see definitions in Section 108(B)), the Commission shall reach findings based upon the following standards:

- A. The most appropriate use of land.
- B. Adequate setback from property lines or use of other screening methods to afford visual and noise buffering from adjacent uses.
- C. There shall be a determination of need for the proposal based upon existing or foreseeable demand for the facility and a survey of existing facilities.
- D. Before final zoning approval is granted, all necessary state and federal permits must be secured by the applicant.
- E. The proposed unit shall be in appropriate geographic relationship to the area which it is intended to serve.



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 603.07 SITING OF FEEDLOTS/SALES YARDS/OTHER CONCENTRATIONS OF LIVESTOCK**

In dealing with applications for Conditional Uses that would concentrate domestic animals in a confined area the Planning Commission shall be especially mindful of standards in Section 602(B), (E)7 and 9.



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 603.08 SITING OF WRECKING YARDS/JUNKYARDS/DISPOSAL SITES**

In addition to other standards set forth in Section 602, the Planning Commission, in review of proposals of this nature, shall consider statutory references found in ORS 481, with particular reference to streets and roads of Baker County.



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 603.09 GUEST RANCHES**

In addition to the criteria contained in sections 301.06, 602, and 603.02 of this Ordinance, the Planning Commission shall ensure that a guest ranch in the EFU Zone is consistent with the following requirements.

A. The guest ranch shall be located on a lawfully created parcel that is:

- 1) at least 160 acres in size, or as provided in subsection 603.09(C) of this section, except as provided under Section 502(B) of this Ordinance;
- 2) not within 10 air miles of an urban growth boundary containing a population greater than 5,000;
- 3) the parcel on which the primary farm dwelling of the person conducting the livestock operation is located;
- 4) not classified as more than 50% Class I, Class II, prime or unique soils as determined by the most recent NRCS soil survey.

B. The guest ranch operation shall be incidental and accessory to a year-round commercial livestock operation. The livestock operation must remain the primary use of the land. A guest ranch will be incidental and accessory to a livestock operation by maintaining the existing livestock operation at a minimum of:

- 1) 4 animal units of cattle, sheep, horses or bison, or a combination thereof per each guest room



approved for overnight accommodation;

2) Stocker/feeder operations shall maintain an average of six animal units per year per guest room, but no less than two animal units per guest room at any time.

3) Subject to prior approval by the Planning Commission, a livestock operation may cease operation for a period of not more than 2 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 2 years, the guest ranch shall cease operation, unless an extension of the 2 year time limit is granted by the Planning Director for special circumstances.

C. Facilities and structures used in the operation of the guest ranch including the lodge, bunkhouses, or cottages cumulatively:

1) for parcels greater than or equal to 160 acres but less than 320 acres in size

a. shall include not less than four nor more than 10 overnight guest rooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities; and

b. shall not exceed a total of 12,000 square feet in floor area including all rooms.

2) for parcels greater than or equal to 320 acres but less than 640 acres in size

a. shall include not less than four nor more than 15 overnight guest rooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities; and

b. shall not exceed a total of 15,000 square feet in floor area including all rooms.

3) for parcels greater than or equal to 640 acres but less than 1280 acres in size

a. shall include not less than four nor more than 20 overnight guest rooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities; and

b. shall not exceed a total of 18,000 square feet in floor area including all rooms.

4) for parcels 1280 acres or more in size

a. shall include not less than four nor more than 25 overnight guest rooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities; and

b. shall not exceed a total of 21,000 square feet in floor area including all rooms.

D. Ranch and recreational activities provided in conjunction with a Guest Ranch

1) Ranch activities related to the livestock operation including but not limited to herding, feeding, roping, and branding, or activities that allow a guest to participate in, or learn about the general operation and management of the ranch shall be an integral part of the operation of a guest ranch.

2) Recreational activities, including but not limited to hunting, fishing, hiking, biking, horseback riding, camping, and swimming may be provided on the land on which the livestock operation is conducted, or on adjacent public land for which the activities provided by the guest ranch are permitted by the appropriate local, state or federal agency.

3) Except as provided for in subsection 603.09(D)(4), not more than ten day-guest vehicles shall be permitted to visit the guest ranch per day. Day visits shall be by reservation of activity packages only, with activities and meals provided as described in subsections 603.09(D)(1) and (2) and 603.09(E) of this Section.

4) Up to 6 special one-day events per year may be conducted on the parcel on which the guest ranch is located for guests who want to visit, but not stay.

5) 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.

E. Food services shall be incidental to the operation of the guest ranch and shall be provided only for guests of the guest ranch. The cost of meals provided to guests shall be included as part of the fee to visit or stay at the guest ranch. The sale of individual meals to persons who are not guests of the guest ranch shall not be allowed.

F. A parcel on which a guest ranch is sited shall not be partitioned, nor otherwise permitted to be reduced in size below the parcel size required for the number of approved guest rooms. A guest ranch shall not be separated from the primary farm dwelling of the person conducting the livestock operation.

G. Transfer of conditional use approval for a guest ranch operation to a new owner/livestock operator shall be subject to approval by the Planning Commission.



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 604 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION**

The procedure for taking action on a Conditional Use application shall be as follows.

A. A property owner or his authorized representative may initiate a request for a Conditional Use by filing an application with the Planning Department using forms prescribed pursuant to Section 1105. Applications shall be filed with the Planning Department at least by the first working date of the month during which the request is to be heard.

B. Before the Planning Commission may act on a Conditional Use application, it shall hold a public hearing thereon following procedures as established in Section 1106.

C. Within five working days after a final decision has been rendered with reference to a Conditional Use application, the Planning Department shall provide the applicant with written notice of the decision of the Commission.



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 605 TIME LIMIT ON A CONDITIONAL USE PERMIT**

Authorization for a Conditional Use shall be void after two years or such lesser time as the authorization may specify, unless substantial construction or action on the permitted use has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year, upon written request.



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## **ARTICLE 6: CONDITIONAL USES**

### **SECTION 606 LIMITATION ON RE-APPLICATION**

No application of a property owner or his authorized agent for the same or similar Conditional Use shall be considered by the Planning Commission within a six-month period immediately following a previous denial of such request. Substantive changes in the application, as determined by the Planning Director, will enable the application to be resubmitted within 90 days.



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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 701 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, and a mixture of those uses by application of imaginative site design techniques, and recognizing the applicability of the objectives set forth in this Section, the Planning Commission intends:

- A. To consider Planned Development Proposals within a framework of defined land use policies and objectives.
- B. To provide flexibility in the application of the general zoning and subdivision provisions of this Ordinance.
- C. To encourage developments which provide flexibility of design in the placement of buildings and open spaces, offstreet 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.

#### SECTION 702 AUTHORIZATION

A. The Planning Commission may authorize Planned Unit Developments as Conditional Uses. The 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 Article 9.

B. Planned Unit Residential Developments may be allowed by the Planning Commission in the Rural Residential (RR-5) and the Recreation Residential (RR-1) zones.

C. Planned Unit Commercial Development may be allowed in the Recreation Residential (RR-1) Zone.



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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 703 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 Site Plan Review Committee. In addition to the general requirements of the Zoning and Subdivision Ordinance, the preliminary plan shall contain the following elements:

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, their 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.



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 Section.
- B. A financial capability report indicating prospective sources of funds and persons having a financial interest in the project.
- 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; 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 Article 10 of this Ordinance.

3) Where replatting 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 replatted.

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 offstreet parking or loading facilities showing points of ingress and egress from the site, numbers of stalls and their 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.



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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 704 PERMITTED USES**

A. The following are permitted in the Planned Unit Residential Development.

- 1) A permitted or 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.
- 4) Commercial service supported mainly by the residents of the development.
- 5) Mobile home developments, provided:
  - a. The standards for mobile home parks contained in Oregon Statutes are satisfied; and
  - b. Mobile 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 as well as dwellings shall be permitted only if the design ensures adequate design features to protect dwellings within the development and adjacent to it 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.**

- 1) A use permitted outright or conditionally in the primary zone.
- 2) Varied arrangement and location of commercial building types and designs.
- 3) Single or multiple-family dwellings if designed with adequate buffering.



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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 705 GENERAL STANDARDS FOR PLANNED UNIT DEVELOPMENTS**

- 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 spacing requirement of the zone.
- C. All electrical, telephone, or cable television utilities shall be located underground.
- D. Offstreet 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 if available.
- F. The layout and design of parcels and the siting of structures shall be oriented to take advantage of solar exposure when practical.



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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 706 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. 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%.

2) Commercial Planned Unit Developments: Areas to be landscaped: 25%.

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, showing types, placement and sizes of planting, all irrigation facilities, and a maintenance plan.
- 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.



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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 707 SPECIAL STANDARDS FOR MOBILE HOMES IN PLANNED UNIT DEVELOPMENTS**

In addition to general location and landscaping standards, mobile home cluster developments shall satisfy the requirements of this section.

Mobile 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 mobile 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 mobile home shall be skirted from the ground up to the bottom of the unit.





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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 708 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 706.

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 nonprofit 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 Court.



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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 709 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.



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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 710 DWELLING UNIT DENSITY**

Dwelling unit density per gross site/acre shall not exceed that allowed within the requirements of the primary zoning district 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.

### **SECTION 711 FINDINGS FOR PROJECT APPROVAL**

A Planned Unit Development shall be approved only if it satisfies the following standards.

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 Article 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. There can be provided 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, or, in cases where increased services are required, compensation will be paid for these services 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 as to 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.



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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 712 APPROVAL PROCEDURE FOR THE PRELIMINARY DEVELOPMENT PLAN BY THE PLANNING COMMISSION**

A. The procedures for review of a tentative plat as specified in Section 409 and Section 1002 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 Article; and its shall recommend conditions, if any, 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 disapprove, the Planned Unit Development based upon standards and criteria listed in this Article. 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 706.

- 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 over 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.



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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 713 APPROVAL OF THE 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 the Subdivision Section 1005 of this Ordinance.
- 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 an 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.





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## **ARTICLE 7: PLANNED UNIT DEVELOPMENTS**

### **SECTION 714 CHANGES SUBSEQUENT TO COMPLETION OF A PLANNED UNIT DEVELOPMENT**

The final development plan shall continue to control the Planned Unit Development after it is completed, and the following shall apply.

A. The Planning Director, initialing a Certificate of Completion of the Planned Unit Development, shall maintain a record of such Certificate.

B. 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.

C. 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.

1) 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.

2) 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.

D. 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.

E. 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 Section are expressly reserved by the County.



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## **ARTICLE 8: VARIANCES**

### **SECTION 801 AUTHORIZATION TO GRANT OR DENY VARIANCES**

The Planning Commission may authorize a Variance from certain provisions of this Ordinance enumerated in Section 802 below. To support such a request, it must be shown that owing to special and unusual circumstances related to a specific lot, strict application of the Ordinance would result in practical difficulties which are unwarranted for the purpose and intent of this Ordinance. In granting a Variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the vicinity and surrounding property and which otherwise achieve the purpose of this Ordinance.



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## **ARTICLE 8: VARIANCES**

### **SECTION 802 CIRCUMSTANCES FOR GRANTING A VARIANCE**

A. Variances which relate to the following provisions of this Ordinance may be granted.

- 1) Placement of a structure on a parcel relative to required setbacks.
- 2) Situations based on preexisting lot size, unusual lot shape or topography, or physical circumstances over which the owner of the property since enactment of this Ordinance has had no control.

B. No Variance shall be granted to allow the use of a property for a purpose not authorized within the zone in which the property is located.

C. No Variance shall be granted to allow creation of parcels below the minimum lot size required in the zone except as provided in Section 802(A)(2).

D. A Variance may be granted only in the event that all of the following circumstances exist.

- 1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity.
- 2) The Variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.
- 3) The Variance would not be materially detrimental to the purposes of this Ordinance or to property in the same zone or vicinity in which the property is located or otherwise conflict with the objectives of the

County's Plan or policies.

4) The Variance requested is the minimum Variance which would alleviate the hardship.



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## **ARTICLE 8: VARIANCES**

### **SECTION 803 PROCEDURE FOR TAKING ACTION ON A VARIANCE APPLICATION**

The procedure for Variances shall be as follows.

- A. A property owner or his authorized representative may initiate a request for a Variance by filing an application with the Planning Department using forms prescribed pursuant to Section 1105. Applications shall be filed with the Planning Department at least by the first working day of the month during which the request is to be heard.
- B. Before the Planning Commission may act on a Variance application, it shall hold a public hearing thereon following procedures as established in Section 1106.
- C. Within five working days after a final decision has been rendered with reference to a Variance application, the Planning Department shall provide the applicant with written notice of the decision of the Commission.



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## **ARTICLE 8: VARIANCES**

### **SECTION 804 TIME LIMIT FOR VARIANCE PERMITS**

Authorization for a Variance shall be void after two years or such lesser time as the authorization may specify, unless substantial construction or action on the permitted Variance has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year, upon written request.



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## **ARTICLE 8: VARIANCES**

### **SECTION 805 LIMITATION ON RE-APPLICATION**

No application of a property owner or his authorized agent for the same or a similar Variance shall be considered by the Planning Commission within a six-month period immediately following a previous denial of such request. Substantive changes in the application, as determined by the Planning Director, will enable the application to be resubmitted within 90 days.





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## **ARTICLE 9: AMENDMENTS**

### **SECTION 901 AUTHORIZATION TO INITIATE AMENDMENTS**

An Amendment to the text of this Ordinance or the Zoning Map may be initiated by the County Court, the County Planning Commission, or by application of a property owner. The request by a property owner for an Amendment shall be accomplished by filing an application with the Planning Department in a manner described in Section 905 or 907 of this Article at least by the first working day of the month during which the action is to be heard.



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## **ARTICLE 9: AMENDMENTS**

### **SECTION 902 AUTHORIZATION TO APPROVE OR DENY PROPOSED AMENDMENTS**

The Planning Commission may approve, deny, or modify proposed Amendments to the Map or text of this Ordinance when such action is taken in accordance with the appropriate portions of Sections 903 through 907 of this Article.



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## **ARTICLE 9: AMENDMENTS**

### **SECTION 903 STANDARDS FOR GRANTING AN AMENDMENT**

To determine whether an Amendment shall be approved, denied or modified, the Commission shall find, in addition to the specific requirements in Sections 905, 906, and 907 of this Ordinance, that the proposal conforms with the County's Comprehensive Plan.



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## **ARTICLE 9: AMENDMENTS**

### **SECTION 904 PUBLIC HEARING ON AMENDMENT**

The Planning Commission shall conduct a public hearing on a proposed Amendment within 60 days after the Amendment is proposed and shall, within five working days after the hearing, recommend to the County Court approval, disapproval, or modified approval of the proposed Amendment. This hearing may be continued for just cause. After receiving the recommendation of the Planning Commission, the County Court shall hold a public hearing on the proposed Amendment within 30 days of Planning Commission action on the request. The Court shall announce its decision within 30 days of its public hearing. Amendments shall be subject to review by the State pursuant to ORS 197.610-630.



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## **ARTICLE 9: AMENDMENTS**

### **SECTION 905 MAP AMENDMENT APPLICATION PROCEDURE**

The following procedure shall be followed when initiating an action for Amendment to the Map of this Ordinance.

A. The applicant shall submit a site plan to the Planning Department and discuss the property involved in the action and the development to be placed on the property if the Amendment is approved. This discussion is to assist the applicant in understanding the Amendment process and to review the development proposal for conformance with the physical requirements of the Zoning and Subdivision Ordinance as early in the process as possible.

B. The applicant and the Planning Department shall jointly complete an environmental review checklist provided by the Planning Department to survey environmental consequences of the proposed action.

Copies of the completed environmental review checklist will be circulated to other departments and affected agencies. Department comments will be attached to the original and will remain in the application file.

C. Impact Report: After response from the other departments and agencies, the Site Plan Review advisory committee will recommend to the Planning Commission whether or not the project has a significant effect on the environment and hence whether an environmental impact report of a negative declaration is appropriate.

D. If it is determined by the Planning Commission that an environmental impact report is required, the applicant shall be informed by mail that the report must be completed before the application can be

considered. The applicant has 10 working days to appeal this requirement to the County Court. If the environmental impact report is required, the mandatory time limit for action on the application shall be extended for the period of time necessary to prepare and adopt a satisfactory report.



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## **ARTICLE 9: AMENDMENTS**

### **SECTION 906 ENVIRONMENTAL IMPACT REPORT PROCEDURE**

Since it is the purpose of this Ordinance to promote public health, safety and welfare, an impact report which shall contain an assessment of the natural, social and economic impact of the proposed Amendment and Development Plan may be required. The impact statement shall be in written form and submitted by the applicant and shall, at a minimum contain an assessment of the following points.

- A. Hydrologic considerations shall include the effect upon the watershed where the project is located, the effect upon the immediate area's storm water drainage pattern, the impact of the proposed development upon downstream areas, and the effect upon the groundwater supply.
- B. Geologic considerations shall include the erosion potential, stability, bearing qualities of the soil, and geologic formation. Soil reconnaissance by the sanitarian to determine septic suitability for the use proposed, soil permeability and infiltration rates, and the soil quality for agricultural consideration.
- C. Vegetation and animal life consideration shall include vegetation of high brush, forest fire potential on the site or in close proximity of the site, areas of low revegetation potential on the site, unique vegetation communities either on site or within close proximity, rare or endangered animal species either on or within close proximity of the site, and highly productive habitats for species of sport, commercial or education value either on site or within close proximity to the site.
- D. Atmospheric considerations shall include the local circulation patterns, prevailing winds, and the condition up or down wind that could be affected by or upon the proposed development.
- E. Economic considerations shall include a detailed discussion of the economic impact of the proposed

development upon the schools, fire districts, 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.

F. Transportation consideration shall include a detailed discussion 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.

G. Service considerations shall include a detailed discussion of the relationship of the proposed development to shopping, recreational, and employment centers.

H. Public need shall include a detailed discussion of how the public will benefit from the proposed development and illustrating the demonstrated public need for the proposed project.

I. Ten copies of the impact report shall be submitted with the tentative Plan of the development and shall be reviewed by the Planning Department and all other appropriate agencies. All agencies shall be given 21 days to reply or comment on the completed impact report. At such time as all agencies have responded or when the time limit has expired, the impact statement and all replies or comments on the statement shall be summarized and transmitted to the Commission and the applicant. This information shall become a part of the record of the public hearing on the proposed Amendment.





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## **ARTICLE 9: AMENDMENTS**

### **SECTION 907 TEXT AMENDMENT APPLICATION PROCEDURE**

The following procedure shall be followed when initiating an Amendment to the text of this Ordinance.

- A. The applicant shall submit to the Planning Department a paper which includes the Section and Subsection of concern, the text of that Section as written, and the language change being applied for.
- B. The applicant shall also present written statements explaining why the change is being requested, the implications of the requested change for his specific property and for all property in general which is affected by the change, and a demonstration of compatibility of the change with the Comprehensive Plan.
- C. A Text Amendment is a legislative action. The Planning Commission shall make a recommendation to approve or deny a text amendment to the Board of Commissioners, after holding one or more public hearings. The Board of Commissioners may approve the text amendment and adopt an ordinance to enact the provisions into law, or may deny the text amendment, after holding one or more public hearings as required by law. In either case, the decision by the Board of Commissioners shall be final.



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## **ARTICLE 9: AMENDMENTS**

### **SECTION 908 RECORD OF AMENDMENTS**

After filing the Amendment(s) with the County Clerk, the County Planning Department shall maintain records of Amendments to the text of the Ordinance and the Zoning Map.



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## **ARTICLE 9: AMENDMENTS**

### **SECTION 909 LIMITATION ON RE-APPLICATION**

No application of a property owner for an Amendment to a zoning boundary shall be considered by the Planning Commission within six months immediately following a previous denial of such request.

Substantive changes in the application, as determined by the Planning Director, will enable the application to be resubmitted within 90 days.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1001 SUBDIVISIONS, PARTITIONS, AND LOT LINE ADJUSTMENTS**

As authorized by law, subdivisions, major and minor partitions and streets created for the purpose of partitioning land shall be approved in accordance with this Article. This Article applies to all land within the unincorporated territory of the County. A person desiring to subdivide land, to partition land, or to create a street or a private road shall submit preliminary plans and final documents for approval as provided in this Article and state statutes.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1001.01 PURPOSE**

Pursuant to Oregon Revised Statutes, Chapters 92, 197 and 215, any person desiring to divide land within any part of Baker County outside of incorporated cities shall submit preliminary plans and final plats for such subdivisions and partitions to the Director for review. Such review of proposed subdivisions and partitions is necessary to allow Baker County to provide for the proper width and arrangement of streets and thoroughfares and their relation to existing or planned streets and thoroughfares; provide for conformity with the Comprehensive Plan regarding patterns for the development and improvement of Baker County; provide for public utilities and the open space or areas necessary for recreation, safety and health; provide for the orderly development of centers of population; and promote the public health, safety and general welfare, as defined in ORS 197 and 215. [ORS 92.046 (1)]



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1001.02 SPECIAL DEFINITIONS FOR THIS ORDINANCE**

#### **A. General Definitions**

The definitions set forth in Section 108(B) of this Ordinance shall be referred to in this Article.

#### **B. Special Definitions**

1) "Minor Amendment" means a change which:

a. Does not increase the number of lots or parcels created by the subdivision or partition;

b. Does not enlarge the boundaries of subdivided or partitioned area;

c. Does not change the general location or amount of land devoted to a specific land use; or

d. Includes only minor shifting of the established lines, location of buildings, proposed public or private streets, pedestrian ways, utility easements, parks or other public open spaces.

2) "Major Amendment" means any change which is not a minor amendment.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1001.03 GENERAL REQUIREMENTS AND STANDARDS OF DESIGN AND DEVELOPMENT FOR PRELIMINARY PLANS**

The following are the requirements and standards to which the preliminary plan of a subdivision or partition must conform.

#### **A. Conformity with the Comprehensive Plan**

All divisions of land shall conform with the Comprehensive Plan of Baker County with respect to the type and intensity of use, population densities, locations and sizes of public areas, rights-of-way and improvements of streets, and any other aspects governed by Comprehensive Plan goals, policies or maps.

#### **B. Conformity with Zoning Article 3**

All divisions of land, regardless of the number of lots or parcels, shall conform in all respects with the applicable regulations and specifications of Article 3, including uses of land, lot size and dimensions, space for off-street parking, landscaping and other requirements as may be set forth.

#### **C. Relation to Adjoining Street System**

A subdivision or partition shall provide for the continuation of major and secondary streets existing in adjoining subdivisions or partitions, or for their proper projection when adjoining property is not subdivided or partitioned, and such streets shall be of a width not less than the minimum requirements for streets set forth in these regulations.

## D. Redevelopment Plan

- 1) In subdividing or partitioning land into large lots or parcels which at some future time could be further divided, the Director may require that lots, and parcels shall be of such size and shape, be so divided into lots and parcels, and meet such building site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any parcel or lot into a smaller size which shall have the minimum lot frontage on a street.
- 2) No lot in a platted subdivision shall be reduced in size from that shown on the recorded plat if the newly created lot will have less than the minimum lot area for the zone in which it is located.
- 3) Any lot in a platted subdivision may be enlarged to approximate more closely the minimum lot area for the zone in which the lot is located, provided that no leftover lot areas shall be less than the minimum lot area for the zone.
- 4) Any person dividing land into large lots or parcels which at some future time could be further divided and still meet the minimum lot or parcel size requirement of the zone in which the land is located shall provide suitable road access to each created lot or parcel so that the future development of each lot or parcel will provide access for redevelopment of the parcels or lots.

## E. Replatting of Partitions and Subdivisions

Replatting shall be required in existing recorded subdivisions or partitions rather than using partitioning procedures.

- 1) A replat will comply with all the provisions of the subdivision or partition standards for a tentative plan, plat and improvements.
- 2) If the replatted property is within an established subdivision or partition with streets or roads, and utilities in place on or adjacent to the property, then the improvement requirements may be waived by the Director.
- 3) In the replatting 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 1-3, 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.)





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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1002 APPLICATIONS FOR APPROVAL OF TENTATIVE PLANS**

A. Any landowner, or landowner's authorized agent or representative, proposing to create a subdivision shall make application to the Planning Department for a public hearing before the Planning Commission for review and approval of the subdivision. Application for a subdivision shall be on forms provided for that purpose and shall be accompanied by the required fee and twenty-one copies of the tentative plan of the proposed subdivision. The tentative plans required by this Section shall meet the standards for such plans as required by this Ordinance and ORS Chapters 92, 197 and 209. Tentative plans for subdivisions can only be approved in nonresource zones. Tentative plans for partitions can be approved in both resource zones and nonresource zones.

B. No plat for any proposed subdivision or resource land partition may be considered for approval by the county governing body until the tentative plan for the subdivision has been reviewed and recommended for approval by the Planning Commission.

C. Before a plat of any subdivision or partition may be recorded with the County Clerk, other County officials shall indicate their approval by signature of the plat in the following order: County Surveyor, Planning Director, Treasurer, and/or County Court.

D. No subdivision plats, or replats may be recorded for lands located within boundaries of an irrigation district, drainage district, water control district or district improvement company until the notice and approval procedures set forth in ORS 92.120 have been implemented.

E. For subdivisions and partitions of land outside the boundaries of an irrigation district, drainage district, water control district or district improvement company, the applicant must file a statement of

water rights. If a water right is appurtenant to the lands of the subdivision or partition, the statement of water rights, a signed copy of the Water Rights Application and a copy of the plan, plat or replat must be submitted to the Oregon Water Resources Department or to the local Watermaster. A copy of the acknowledgment from the Water Resources Department must be submitted with the final plat of the subdivision or partition to the County Clerk for recordation.

F. Copies of all tentative plans of any proposed subdivision or resource land partition shall be made available for review and comment in writing within 45 days to all affected City, County, State and Federal agencies; affected special districts (school, irrigation, fire); utilities (phone, power, cablevision); and all property owners within 250-500 feet of the external boundaries of the land involved.

#### SECTION 1003 ADJUSTMENT OF PROPERTY LINES

The common boundary line between lots or parcels may be adjusted in accordance with this section without the replatting procedures in ORS 92.180 and 92.185 or the vacation procedures in ORS Chapter 368. Once a lot or parcel line has been adjusted, the adjusted line shall be the boundary or property line, not the original line. The Director has authority to approve a line adjustment as a ministerial action.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1003.01 APPLICATION FOR LINE ADJUSTMENT APPROVAL**

An application for line adjustment shall be filed by the owners of all lots or parcels affected. The application shall be accompanied by an appropriate fee and contain the following information:

- A. Vicinity map locating the proposed line adjustment in relation to adjacent subdivisions, partitions, other units of land and roadways.
- B. A plot plan showing 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 shall also show the approximate location of all structures within ten feet of the proposed adjusted line.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1003.02 NO ADDITIONAL UNITS OF LAND; MINIMUM SIZE AND SETBACKS REQUIRED; EXCEPTIONS**

- A. A line adjustment is permitted only where an additional unit of land is not created and where the lot or parcel reduced in size by the adjustment complies with the requirements of the applicable zone.
- B. A line adjustment is permitted only where existing or planned structures will not encroach within required setbacks as measured from the adjusted line.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1003.03 EASEMENTS UNAFFECTED**

A line adjustment shall have no affect on existing easements.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1003.04 MAP AND MONUMENTS REQUIRED**

Survey and monuments are not required when only one or two abutting property lines are adjusted. If four or more units of land are changed, this would be defined as a "subdivision" and would require a subdivision or replat of an existing subdivision. [ORS 92.060(8)(9)]



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1003.05**

No Adjustment of a Property Line or Lot Line Adjustment shall be recorded 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. [ORS 92.095]



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1003.06 APPROVAL AND FILING REQUIREMENTS**

- A. Upon determination that the requirements of this section have been met, the Director shall advise the applicant by signature and date that the line adjustment is approved.
- B. After signature by the Baker County Treasurer and Baker County Planning Director the applicant shall file the necessary documents with the Baker County Clerk for recording. The recording shall describe conveyances conforming to the approved property line adjustment. [ORS 92.190(3)]
- C. A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment. [ORS 92.190(3)]





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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1003.07 NOTIFICATION TO COUNTY ASSESSOR**

Upon final approval and recording, a copy of the property line adjustment and deeds is submitted to the County Assessor.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1004 PRELIMINARY SUBDIVISION PLAN APPROVAL**



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1004.01 SIMILAR NAMES**

No tentative plan or plat of a subdivision shall be approved which bears a name using a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the County, except for the words "Town," "City," "Place," "Court," "Addition," or similar words, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name; or, unless the party files and records the consent of the party that platted the subdivision bearing that name and such subdivision is contiguous. All plats and maps must continue the lot numbers of the plat or map of the same name last filed.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1004.02 INITIAL SUBDIVISION PLAN REQUIREMENTS**

A. The applicant shall file with the Director a preliminary subdivision plan and twenty-one (21) additional copies, together with improvement plans and other supplementary information required by this section to demonstrate the design and objectives of the subdivision.

B. The preliminary plan and improvement plans shall be clearly and legibly drawn. The plans shall show all required information to scale so that the approving authority may have an adequate understanding of what is proposed. Unless otherwise determined by the Director, the scale of the drawing is to be one (1) inch equals one hundred (100) feet, or one (1) inch equals fifty (50) feet.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1004.03 INFORMATION REQUIRED FOR PRELIMINARY SUBDIVISION PLAN**

- A. The proposed name of the subdivision.
- B. North arrow, scale and date of the drawing.
- C. Appropriate identification to show the map is a preliminary plat.
- D. Names and addresses of the landowners, subdivider and the engineer, surveyor, land planner or landscape architect responsible for designing the subdivision.
- E. The tract designation or other description according to the real estate records of Baker County (Township, Range, Section, Tax Lot Number(s), Assessor's Tax Account Number(s)).
- F. The boundary line (accurate in scale) of the tract to be subdivided and approximate acreage of the property.
- G. Contours with intervals of five (5) feet or less referred to United States Geological Survey (or mean sea level) datum for subdivisions with lot sizes of one (1) acre or less.
- H. The names of adjacent subdivisions or the names of recorded owners of adjoining parcels of unsubdivided land.
- I. The location, widths, and names of existing or platted streets or other public ways (including easements) within or adjacent to the tract, existing permanent buildings, railroad rights-of-way and other

important features such as section lines, political subdivision boundary lines and school district boundaries.

J. Existing sewers, water mains, culverts, drainage ways or other underground utilities or structures within the tract or immediately adjacent thereto, together with pipe sizes, grades and locations indicated.

K. Location, acreage and dimensions of land to be dedicated for public use or reserved in the deeds for the common use of property owners in the proposed subdivision, together with the purpose of conditions or limitations of such reservations, if any.

L. Proposed plan for draining surface water from the development and a description of any effects on adjacent properties.

M. The proposed street pattern or layout showing the name and widths of proposed streets and alleys.

N. Private streets and all restrictions or reservations relating to such private streets.

O. Easements, together with their dimensions, purpose and restrictions on use.

P. Proposed means and location of sewage disposal and water supply systems.

Q. Proposed lots, approximate dimensions, size and boundaries. Residential lots shall be numbered consecutively. Lots to be used for other than residential purposes shall be identified with letter designations.

R. Sites, if any, for residences other than single-family dwellings.

S. Parks, playgrounds, recreation areas, parkways, and open space for public use, clearly identified.

T. Zoning classification of the land and Comprehensive Plan map designation.

U. Draft of proposed restrictions and covenants affecting the plat.

V. Predominant natural features such as water courses and their flows, marshes, rock outcropping, and areas subject to flooding, sliding or other natural hazards.

W. A statement of water right as required in ORS 92.120. If a water right is appurtenant, a copy of the acknowledgment from the State Water Resources Department shall be filed with the final plat as provided in Section 1002.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1004.04 DEVELOPMENT PHASING**

A. A preliminary subdivision plan may provide for platting in as many as three (3) phases. The preliminary plan must show each phase and be accompanied by proposed time limitations for approval of the final plat for each phase.

B. Time limitations for the various phases must meet the following requirements.

- 1) Phase 1 final plat shall be approved within twenty-four (24) months of preliminary approval.
- 2) Phase 2 final plat shall be approved within thirty-six (36) months of preliminary approval.
- 3) Phase 3 final plat shall be approved within forty-eight (48) months of preliminary approval.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1004.05 CRITERIA FOR APPROVAL OF PRELIMINARY SUBDIVISION PLAN**

- A. A decision on the preliminary subdivision plan application shall be made first by the Planning Commission. The Planning Commission will make a recommendation to the County Court, the County Court will review the preliminary subdivision plan for final preliminary approval.
- B. The preliminary subdivision plan shall be approved if the Approving Authority finds the following:
- 1) The information required by this chapter has been provided;
  - 2) The design and development standards of Section 1004 of this Article have been met; and
  - 3) If the preliminary plan provides for development in more than one phase, the Planning Commission and County Court makes findings and conclusions that such phasing is necessary due to the nature of the development, and that the applicant will be able to comply with the proposed time limitations.
- C. In granting preliminary approval, the County Court may impose conditions of approval deemed necessary to carry out the Comprehensive Plan and the provisions of this ordinance. Such conditions may include the construction of off-site public improvements, or money equivalent, deemed necessary, either immediately or in the future, as a result of the proposed development and shall be reasonably conceived to fulfill public needs emanating from the proposed development in the following respects.
- 1) Protection of the public from the potentially deleterious effects of the proposed development; or



2) Fulfillment of the need for public service demands created by the proposed development.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1004.06 DURATION OF PRELIMINARY SUBDIVISION PLAN APPROVAL**

A. Approval of a preliminary subdivision plan shall be valid for twenty-four (24) months from the date of approval of the preliminary plan, provided that if the approved preliminary plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to the limitations of this ordinance.

B. If any time limitation is exceeded, approval of the preliminary subdivision plan, or of the phase of the preliminary subdivision plan, and any subsequent phases, shall lapse. Any subsequent proposal by the applicant for division of the property shall trigger a new review process.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1004.07 GRANTING OF EXTENSIONS**

A. An applicant may request an extension of a preliminary subdivision plan approval or, if the preliminary plan provides for phased development, an extension of preliminary approval with respect to the phase the applicant is then developing. Such request shall be considered an administrative action and shall be submitted to the Director, in writing, prior to expiration of such approval, stating the reason why an extension should be granted.

B. The Director may grant an extension of an approval for up to twelve (12) months for a preliminary subdivision plan. If the preliminary plan provides for phased development, an extension of an approval for up to twelve (12) months for that preliminary subdivision plan phase being developed, for which the applicant was not responsible, or would prevent the applicant from obtaining final plat approval within the original time limitation.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005 FINAL SUBDIVISION PLAT APPROVAL**

Action upon a final subdivision plat by the Director is a ministerial action and must be undertaken within thirty (30) days of receipt of the final plat.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005.01 APPLICATION FOR FINAL SUBDIVISION PLAT APPROVAL**

- A. Before expiration of the preliminary subdivision plan approval obtained pursuant to Section 1004 of this ordinance, the applicant shall cause an Oregon registered professional land surveyor to survey the subdivision and to prepare a final plat, in conformance with the approved preliminary plan.
- B. The applicant shall initiate a request for final plat approval by filing with the Director a final plat, an exact reproducible transparency, other supporting documents as described in this Article, and the appropriate fees as established by the Baker County Court.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005.02 FINAL SUBDIVISION PLAT REQUIREMENTS**

- A. The final plat shall be prepared in conformance with all provisions of Section 1004.
- B. Prior to submission for final approval, the final subdivision plat shall be signed by all persons who own land in the subdivision and the mortgagees, or by their authorized representatives or any titleholder. The plat shall bear the signature and seal of the registered professional land surveyor responsible for its preparation and certification that the plat has been correctly surveyed and properly monumented. All signatures must be with black ink.
- C. No subdivision, partition or property line adjustment shall be recorded unless all ad valorem taxes, interest and penalties imposed on land disqualified for any special assessment and all 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. [ORS 92.095]



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005.03 INFORMATION REQUIRED IN THE FINAL SUBDIVISION PLAN**

The following information shall be included on the final plat or in the supporting documents, and the plat shall otherwise comply with ORS 209.250.

A. Name of Subdivision.

B. North arrow, scale and date the plat was prepared.

C. Legal description of the subdivision boundaries, area of the subdivision in acres, and the location of the subdivision by one-fourth section and Donation Land Claim, Township and Range.

D. Names and addresses of the subdivider, owner, mortgagee, if any, and the person preparing the plat.

E. Subdivision lot boundary lines and street right-of-way and center lines with dimensions to the nearest 1/100th of a foot, bearings or deflection angles, radii, arc, points of curvature, chord bearings and distances, and tangent bearings. Subdivision boundaries, lot boundaries, and street bearings shall be shown to the nearest 30 seconds with basis of bearings.

F. Names and width of the portion of streets being dedicated, the width of any existing right-of-way, and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated.

G. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, a certified copy of the easement shall be provided. The width

of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.

H. Locations and widths of drainage channels, railroad rights-of-way, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the subdivision.

I. Numbering of lots, as follows:

1) Lot numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure or lot numbers. In an addition to a subdivision of the same name, numbers shall be a continuation of the numbering in the original subdivision.

J. Ties to any city, county, condominium, adjacent subdivision boundary lines, and geodetic control monuments as required by ORS 92.050.

K. Zoning classification of the property within the subdivision.

L. The course of all lines traced or established, giving the basis of bearing and the distance and course to a section corner, one-quarter corner, one-sixteenth corner, donation land claim corner in Township and Range, a lot corner of a platted subdivision, or a boundary corner of a condominium.

M. Space for date and signature of the County officials.

N. Any conditions specified by the Approving Authority upon granting preliminary approval.

O. Proof that a year-round source of potable water capable of supplying at least 250 gallons of water per day is available to each lot in the subdivision.

P. A copy of the covenants, if any, that will be placed on the subdivision, including the volume and page (s) of recording with Baker County.

Q. A copy of all documents relating to establishment and maintenance of private facilities, common areas and easements, including the volume and page(s) of recording with Baker County.

R. A copy of all documents relating to additional requirements or restrictions required by the County as a condition of approval.

S. A certificate signed and acknowledged by all parties having any record title interest in the land consenting to the preparation and recording of the plat.

T. A certificate signed and acknowledged by all parties having any record title interest in the land dedicating all land intended for public use and common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems the donation of which was made a



condition of the approval of the tentative plan.

U. A narrative per ORS 209.250(2).

V. Except for a plat subject to ORS 92.120, a statement of water rights and a copy of the acknowledgment from the State Water Resources Department if this statement indicates a water right is appurtenant.

W. Planning Department file number.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005.04 FLOOD PLAIN MONUMENTATION FOR SUBDIVISION AND PARTITIONS**

For subdivisions and partitions involving land in a flood plain, the following specifications shall apply.

A. A standard Bench Mark shall be a minimum of 30 inches in depth and 2 inches in diameter galvanized steel or aluminum pipe, surrounded by a 6 inch diameter concrete casing 12 inches deep. The pipe shall have an appropriate cap. In the alternative, a concrete block with a monumentation embedded in it may be used. All caps shall bear the name of the Bench Mark, the year set and the agency or Registered Land Surveyor's license number. The Bench Mark shall be set at least 30 inches in the ground in a stable, protected area of the partition or subdivision. The elevation established shall be to the standards of the Federal Emergency Management Agency (FEMA).

B. The Bench Mark location shall be indicated on the face of the Plat or Final Survey Map along with its name and elevation and the name, year, and elevation of the Bench Mark upon which the elevation is based.

C. The level notes or a copy thereof shall be filed with the final map.

Any exceptions to this subsection shall be allowed only with the approval of the County Surveyor.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005.05 FIELD NOTES AND CLOSURE COPIES TO COUNTY SURVEYOR**

- A. Copies of all lot closures, block closures, and plat closures of the subdivision shall be furnished to the County Surveyor upon his request.
- B. If the interior monuments are not set prior to the approval of the plat, the field notes or legible copies for the original survey of the subdivision shall be furnished to the County Surveyor upon his request.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005.06 COUNTY SURVEYOR FEES**

The subdivider shall pay a fee to the County Surveyor as provided in ORS 92.100(2). If the interior monuments are not set prior to the approval of the plat, the subdivider shall pay an additional fee to the County Surveyor equal to 50% of that fee provided in ORS 92.100(2), to cover the second field check as provided in post monumentation. In the event a second field and/or office check becomes necessary because of substantial discrepancies found in the first check, the County Surveyor may, at his discretion, charge a second fee or partial fee.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005.07 AGREEMENT FOR IMPROVEMENTS**

A. Before approval of the final subdivision plat, the applicant shall either install the improvements required by the preliminary plan approval and repair existing streets and other public facilities damaged in the development of the subdivision, or shall execute and file with the County Court an agreement between the applicant and the County specifying the period within which required improvements and repairs will be completed. The agreement may provide for the construction of the required improvements in phases. The agreement shall provide that if work is not completed within the period specified, the County may complete the work and recover the full cost and expense thereof from the applicant.

B. An applicant may request an extension of time for completion of required improvements. Such request will be considered an administrative action. Such extension shall be approved only if changed conditions for which the applicant is not responsible have made it impossible to fulfill the agreement within the original time limit(s).



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005.08 PERFORMANCE BOND**

A. To assure full performance of the improvement agreement, an applicant shall provide one of the following.

- 1) a surety bond executed by a surety company authorized to transact business in the State of Oregon on a form approved by the County Counsel; or
- 2) cash deposit with the County Treasurer; or
- 3) certification or letter of assurance by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses, and that said money will be released only upon the direction of the Director of Public Works. The bank certification or letter of assurance shall be approved by the County Counsel; or
- 4) cash deposit with an escrow agent authorized to transact business in the State of Oregon subject to escrow instructions that require the escrow agent to release the money only upon the direction of the Director of Public Works. Escrow instructions shall be approved by the County Counsel.

B. Such assurance of full and faithful performance shall be for a sum determined by the Public Works Director to be sufficient to cover the cost of the improvements and repairs that may be required prior to approval of the final plat, including related engineering, and may include an additional percentage as determined by the Public Works Director to cover any inflationary costs which may be incurred during the construction period prior to the full and final completion of the project.

C. If the applicant fails to carry out provisions of the improvement agreement and the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred, the remainder shall be released. If the amount of the bond or cash deposit is less than the cost and expense incurred, the applicant shall be liable to the County for the difference.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005.09 DEVELOPMENT PHASING**

If the preliminary subdivision plan approval pursuant to Section 1004 of this ordinance provided for phasing of development, the applicant may request final plat approval for an individual phase of the subdivision by filing with the Director a final plat and supporting documents, as provided in Subsections 1 through 6 of this section, for that phase only.





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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005.10 STANDARDS FOR FINAL SUBDIVISION PLAT APPROVAL**

- A. The Director shall grant final subdivision plat approval if she/he determines the final plat and supporting documents are in substantial conformance with the approved preliminary plan, including any conditions imposed by the County Court. Substantial conformance means that any differences between the preliminary and final plans are "minor amendments," as defined in Section 1001 of this ordinance.
- B. The granting of final plat approval shall not be affected by a change in the zone or plan map designation of the subject property made after approval of the preliminary subdivision plan.
- C. Approval of a final plat by the County Court shall constitute an acceptance by the public of the dedication of any street shown on the plat. Acceptance of a street by approval of the final plat shall not constitute an acceptance to maintain the street. Acceptance for maintenance of any street by virtue of approval of the final plat shall be by a separate process of petitioning the Board for acceptance of road maintenance. Approval of the final plat shall not act as an acceptance by the public of any other land for public purposes.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1005.11 FILING AND RECORDING OF FINAL PLAN**

A. After final plat approval, the applicant shall within 15 days, submit the final plat for signatures of the following County officials, in the order listed:

- 1) Planning Director.
- 2) Surveyor, in accordance with the provisions of ORS 92.100.
- 3) County Treasurer.
- 4) Assessor.
- 5) County Court. The County Judge may sign the subdivision plat for the County Court. If the Judge does not sign the plat, at least two members of the County Court shall sign the plat prior to its submission to the County Clerk.

B. The final plat shall be recorded within thirty (30) days of the date that the signatures and approvals required by Subsections 1005.10 and 1005.11 of this section were obtained.

### **SECTION 1006 LAND PARTITIONS**



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1006.01 APPROVAL OF PRELIMINARY PARTITION PLANS**

An application for a partition in any zone shall be reviewed by the Planning Director, subject to the applicable provisions in this Ordinance, statutory requirements, and the notice requirements contained in ORS 215.416(11). The Planning Director may refer an application to the Planning Commission if the Director determines that the proposal could have significant impacts beyond the abutting properties that are not likely to be adequately addressed by response to the notice requirements under ORS 215.416 (11), or that the proposal requires a public hearing to clarify County policy regarding issues of concern raised by the proposal that are not otherwise addressed by this Ordinance.

A. Any landowner, or landowner's authorized agent or representative shall make application to the County Planning Department for review and approval of the partition. Application for a partition shall be on forms provided for that purpose and shall be accompanied by the required fee and eight copies of the proposed Tentative Plan of the Partition. The Tentative Plan required by this Subsection shall meet the standards for such plan as required by this Ordinance.

B. No Tentative Plan of a Partition shall be approved unless such plan complies with the applicable Zoning Ordinance or other regulations of the County that are in effect.

C. An application for preliminary partition plan approval shall be initiated as provided by this Ordinance. Applicants shall file with the Director a copy of the preliminary plan.

D. A preliminary partition plan and supporting documents shall include the following.

1) A vicinity map locating the proposed partitioning in relation to adjacent subdivisions, roadways, and

other land parcels.

2) Location of the parcel by Section, Township and Range.

3) North arrow, scale and date.

4) A plan of the proposed partitioning, showing parcel dimensions, bearings of all lines, area of each parcel, and the names of existing and proposed roads.

5) Private streets and all restrictions or reservations relating to private streets.

6) Name and address of the landowners, the applicant and the surveyor, employed to make necessary surveys and prepare the description of each parcel involved.

7) Proposed means and location of water supply and sewage disposal for each parcel.

8) Zoning classification of the land and Comprehensive Plan map designation.

9) Predominant natural features, such as water courses and their flows, marshes, rock outcroppings, and areas subject to flooding, sliding or other natural hazards.

10) Draft of proposed restrictions and covenants affecting the partitioned land.

11) A statement of water right as required in ORS 92.120. If a water right is appurtenant, a copy of the acknowledgment from the State Water Resources Department shall be filed with the final partition map. A signed copy of the Water Right for Partitioning Application shall accompany the preliminary partition plan. Should the Watermaster find requirements, such as an irrigation ditch easement, these necessary requirements shall be a part of the tentative approval and shown on the final map.

E. All road easements created for the purpose of dividing land and/or creating access to said land shall be of no less than 60 feet and shall be recorded with the County Clerk. Until such time as the full easement is needed for development and maintenance of the road, the parties may fence and use the untraveled portion of the easement but shall place no buildings within the 60 foot easement. When fences are built closer than 30 feet from the center line of the access road, they shall be removed at the property owner's expense when the road is accepted for public maintenance.

F. Standards for approval of a preliminary partition plan

1) A decision on a preliminary partition plan application shall be made by the Director as provided in this Section.

2) The preliminary partition plan shall be approved if the Director finds that the information required by this Subsection has been provided and if the design and development standards of this Article have been met.

G. The Director may require dedication or reservation of land and utility or drainage easements, and

may impose conditions promoting redevelopment of the parcels if, in view of zoning and Comprehensive Plan map designation, the acreage of a parcel or parcels in contiguous ownership make additional partitioning of the subject property feasible.

#### H. Duration of approval for preliminary partition plan:

Approval of a preliminary partition plan shall be valid for twenty-four (24) months from the date of tentative approval. During such time, all conditions of approval shall be met and required documentation shall be filed with the Director as an application for final approval, and shall otherwise comply with the provisions of Subsections 1006.01 and 1006.02 of this section.

#### I. Granting of Extensions

- 1) An applicant may request an extension of the validity of a preliminary partition plan approval. Such request shall be considered an Administrative Action and shall be submitted to the Director in writing prior to the expiration of such approval, stating the reason why an extension should be granted.
- 2) The Director may grant an extension of up to twelve (12) months in the validity of a preliminary partition plan approval if it is determined that a change of conditions, for which the applicant was not responsible, would prevent the applicant from obtaining final plan approval within the original time limitation.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1006.02 APPROVAL OF FINAL PARTITION PLAT**

A. Within twenty-four (24) months from the date of preliminary partition plan approval, the applicant shall initiate a request for final partition plat approval by filing with the Director a final partition plat prepared in accordance to those standards specified in Section 1005 of this chapter.

B. The approval of a final partition plat by the Director is a ministerial action. The Director shall grant final approval if it is determined that:

- 1) the final partition plat and any supporting documents are in substantial conformance with the approved preliminary partition plan;
- 2) any conditions imposed by the Approving Authority have been met; and
- 3) all ad valorem taxes placed on the tax rolls shall be paid prior to filing the final plat map. [ORS 92.095]

Substantial conformance means that any differences between the preliminary and final plans are "minor amendments," as defined in Section 1001 of this ordinance.

C. All access easements created as part of land partitioning shall clearly specify which parcel or parcels it serves and shall be shown on the face of the map along with a written legal description of the easement. If the access easement is preexisting or if the access easement has been filed with the County Clerk prior to the final approval of the land partition, then the recording number shall appear on the face of the map.

D. The granting of final partition plat approval shall not be affected by a change in the zone or comprehensive plan map designation of the subject property made after approval of the preliminary partition plan.

E. After approval the final partition plat must be prepared by an Oregon Registered Professional Land Surveyor and reviewed by the Baker County Surveyor, the Baker County Treasurer, the Baker County Planning Director, and shall be filed with the Baker County Clerk for recording.

F. All parcels in a partition that exceed ten acres in size need not be surveyed or monumented but a final partition plat prepared by an Oregon registered professional land surveyor is required.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1006.03 LAND PARTITION PLAT REQUIREMENTS**

#### **A. Conformance to Tentative Plan**

The partition plat shall substantially conform to the tentative plan as approved.

#### **B. Preparation**

All partition plats shall be prepared by a professional land surveyor registered with the State of Oregon and shall otherwise comply with ORS 209.

#### **C. General Information**

The partition plat shall comply with ORS 209 and contain the following information.

- 1) Location of the parcel by Section, Township, and Range.
- 2) Names of the partitioner, owner, mortgagee, if any, and the registered professional land surveyor preparing the map.
- 3) A declaration stating that the declarant has caused the partition plat to be prepared shall be included on the face of the plat. If the declarant is not the fee owner of the property, the fee owner shall also execute the declaration for the purpose of consenting to the property being partitioned. [ORS 92.075]
- 4) North arrow, scale, and date submitted.



- 5) The names of any streets intersecting or within the parcels.
- 6) All easements provided for public services, utilities, or access must be shown on the face of the partition plat along with the legal description and any limitations of the easements. If it is a preexisting easement or if the easement has been filed with the County Clerk prior to the final approval of the land partition, then the recording number shall appear on the face of the partition plat.
- 7) A surveyor's affidavit and written legal description of the boundary of all land contained in the land partition. Each parcel shall be identified with a parcel designation.
- 8) Space for date and signatures of the following officials for the final partition plat:
  - a. Director
  - b. County Surveyor
  - c. County Treasurer
  - d. County Clerk
- 9) Narrative per ORS 209.250.
- 10) Any additional information made a condition of approval of the tentative plan.
- 11) When parcels are not required to be monumented or surveyed, a schematic diagram shall be included on the face of the final partition plat showing the exterior boundaries of all parcels and their relationship with the parcel(s) requiring monumentation and surveying.
- 12) A statement of water rights and a copy of the acknowledgement from the State Water Resources Department if this statement indicates a water right is appurtenant.

#### D. County Surveyor's Fee

The partitioner shall pay a fee to the County Surveyor for checking partition plats if such fee is established by the County Surveyor.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1007 APPROVAL OF MINOR AMENDMENTS**

A minor amendment to an approved preliminary subdivision or partition plan or to an approved final subdivision plat or final partition plat may be approved by the Director.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1008 PROCEDURES FOR APPROVAL/DISAPPROVAL**

A. Written notice shall be given of the Planning Director's decision regarding ministerial approvals subject to appeal provisions of Article 11.

B. For partitions within zones that require a public hearing, or in the judgment of the Planning Director requires Planning Commission's involvement, a public hearing will be scheduled pursuant to Article 11.

### **SECTION 1009 STANDARDS FOR ROADS OR STREETS**

All road easements created for the purpose of dividing land and/or creating access to said land shall be no less than 60 feet in width and shall be shown on the plat map and recorded with the County Clerk.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1009.01 DEFINITIONS AS USED IN THIS SECTION**

A. A "Class 1 Land Division" means a subdivision or partition containing one or more lots or parcels that contain less than one acre (43,560 square feet) in area. Road construction standards for a Class 1 Division are described by diagram "A", Standards for Baker County.

B. A "Class 2 Land Division" means a subdivision or partition containing one or more lots or parcels that contain one acre or more but less than five acres of land. Road construction standards for a Class 2 Division are described by diagram "A" Standards for Baker County.

C. A "Class 3 Land Division" means a subdivision or partition containing one or more lots or parcels that contain five acres or more of land. Road construction standards for a Class 3 Division are described by diagram "A" and "B" Standards for Baker County.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1009.02 CLASS 1 LAND DIVISION STANDARDS**

- A. Each lot or parcel shall have direct access to an existing City street, County road, public road or State highway or indirect access to such a street, road or highway, by way of a road or street created for such a purpose. Any road or street created to perform such indirect access shall conform to the standards as provided in this section. The access right-of-way provided herein shall have a minimum width of 60 feet.
- B. The necessary drainage structures and fill are provided to prevent flooding. See Section 1008.
- C. Domestic water supply facilities, excluding individual wells, are available to the property line of each lot or parcel meeting the standards of applicable State regulation.
- D. Sanitary sewage disposal facilities are available to the property line of each lot or parcel or as an alternative each lot or parcel shall be approved for subsurface sewage disposal. Any facility for or method of sewage disposal shall be approved in accordance with the applicable State regulations.
- E. Electricity shall be available to the property line of each lot or parcel.
- F. Easement for utilities shall be provided along an appropriate property line to insure each lot or parcel is served. A utility easement shall be a minimum of 12 feet, which width may be evenly divided along common property lines.
- G. The minimum length of a block shall be 440 feet and the maximum length shall be 1320 feet.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1009.03 CLASS 2 LAND DIVISION STANDARDS**

Any Class 2 land division created in the County shall conform to all of the provisions of section 1009.02 except that individual wells may be the source of domestic water supply.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1009.04 CLASS 3 LAND DIVISION STANDARDS**

Any Class 3 land division created in the County shall conform to the provisions of 1009.02 and 1009.03 of this section.



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## **ARTICLE\_10: MAJOR PARTITIONS MINOR PARTITIONS**

### **SECTION 1010 CLEAR VISION AREAS**

A. In all zones a clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction from the top of the curb, or, where no curb exists, from the established street centerline grade, except wire or other construction fences which permit clear vision through the triangular area. Trees may be located in this area provided all branches and foliage are removed to a height of eight feet above the grade.

B. Measurement of clear vision area: A clear vision area shall consist of a triangular area two sides of which are lot lines measured from the corner intersection to the street right of way for a distance specified in this regulation; or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersection ends of the other two sides. The following measurements shall establish clear vision areas within Baker County.

1) In the EFU or Timber Grazing zones the minimum distance shall be 30 feet.

2) In all other zones the minimum distance shall be in relation to street and road right-of-way width as follows:

Road Right-of-way Width Clear Vision Measurement

80 feet and more 20 feet

60 feet 30 feet

50 feet 40 feet



40 feet 50 feet

30 feet 60 feet

25 feet 65 feet

The following diagram depicts measurements of a clear vision area.



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1101 ADMINISTRATION**

The County Planning/Community Development Director shall have the power and the duty to enforce the provisions of this ordinance.



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1102 WRITTEN NOTICE OF DECISION**

Approval or denial of any written application for a use permitted by this ordinance shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision and explains the justification for the decision based on the criteria, standards and facts set forth. A decision by the Planning Commission is not considered final until its tentative oral decision is reduced to writing and the final writing is mailed to the applicant. For conditional use permits reviewed by the Planning Commission, the decision and findings shall be mailed to the applicant and to other parties as required by law within five working days.



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1103 AUTHORIZATION OF SIMILAR USES**

In any given zone, the Planning/Community Development Director may permit a use not listed in this Ordinance, provided it is of the same general nature as a use permitted. However, this Section does not authorize the inclusion of a use into a zone when said use is specifically listed in another zone.



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1104 APPEALS**



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1104.01 Generally**

A person may appeal to the Planning Commission from an administrative decision or requirement made by the Planning/Community Development Director. A person may appeal to the County Court from a decision or requirement made by the Planning Commission.

A decision by an applicant to withdraw an application at any time during the land use process is not a final land use decision by the County, and therefore may not be appealed. An applicant may choose to withdraw an application even after a local appeal has been filed. The withdrawal will render the appeal moot.

Written notice of the appeal must be filed with the County (either the County Court or the Community Development Director) within ten days after the decision or requirement is made. A decision is appealable within ten calendar days of the date the written decision is mailed to the applicant. The postmark on the envelope shall serve as the mailing date. If the tenth calendar day falls on a weekend or holiday, the first working day following will be considered the tenth day for appeal purposes.



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1104.02 NOTICE OF APPEAL**

The Notice of Appeal shall state:

- A. Appellant's standing, which means the basis on which the appellant claims an interest in the decision made.
- B. The nature of the decision or requirement being appealed (e.g., a decision of the Director, a condition on a permit)
- C. The reasons for the appeal based on the decision making criteria and findings.
- D. The name and address of a contact person for purposes of receiving notice.



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1104.03 APPEAL PROCEDURE**

The procedure for appeal shall be as follows.

A. Appeal to the Planning Commission from an administrative decision of the Planning/Community Development Director

- 1) An appeal to the Planning Commission will be scheduled within 30 days from the date the appeal is filed.
- 2) The Planning Commission 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.
- 3) Notice of the appeal will be mailed to all parties of record at least 10 days prior to the scheduled hearing. Notice of the appeal will also be provided to the County's newspaper of record.
- 4) An appeal to the Planning Commission is a de novo review, which means the Commission may hear testimony and receive new evidence regarding the application, criteria and decision.
- 5) The Planning Commission 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.
- 6) After the Planning Commission's hearing, the Commission may affirm, modify or overrule the



Director's decision. The Commission shall set forth findings for its decision.

B. Appeal to the County Court from a decision of the Planning Commission

- 1) An appeal to the County Court will be scheduled within 30 days from the date the appeal is filed.
- 2) The County Court 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.
- 3) 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 Court agenda.
- 4) An appeal to the County Court is a record review. No new testimony will be received by the Court. 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.
- 5) The County Court 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.
- 6) The County Court shall remand back to the Planning Commission for rehearing any appeal in which new information is revealed which was not a part of the record and which might have influenced the original decision.
- 7) A decision of the County Court will be made by Court order signed by a majority of the court.
- 8) A land use decision by the County Court may be appealed to the Land Use Board of Appeals in accordance with the Board's rules and procedures.



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1105 FORM OF APPLICATIONS**

Applications provided for in this Ordinance shall be made on forms prescribed by the County. An application shall be accompanied by plans and specifications drawn to scale showing the actual shape and dimensions of the property in question; the sizes and locations on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated therein; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this Ordinance.

At all times, the burden of proof is on the applicant to show conformity with the criteria articulated in the Comprehensive Plan and Zoning Ordinance.



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1106 NOTICE OF PUBLIC HEARING**



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1106.01 PUBLICATION OF NOTICE**

A. Each Notice of Public Hearing authorized by this Ordinance shall be published in a newspaper of general circulation in the county at least 20 calendar days prior to the date of the hearing.

B. A Notice of Hearing on a conditional use, variance, amendment, or land division requiring a hearing for property located in a resource zone (Exclusive Farm Use, Timber Grazing, Surface Mining and Mineral Extraction) shall be mailed to all owners of property within 500 feet of the property for which the land use decision has been requested. The Notice of Hearing shall be mailed at least 20 calendar days prior to the date of hearing.

A notice of hearing for actions in all other zones shall require notification to land owners within 250 feet of the property boundaries. All other notice requirements shall remain the same. [Ref. ORS 197.763 (1993)]

C. Failure of a person to receive a notice prescribed in this section shall not impair the validity of the hearing, if the County can show that such notice was mailed. [Ref. ORS 197.763(1993)]



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1107 RULES FOR CONDUCT OF QUASI-JUDICIAL HEARINGS**

The rules of conduct are contained in Ordinance 78-02 as amended by Ordinance 85-6, providing for rules of procedure for the conduct of hearings.



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1108 FILING FEES**

Any application required by this Ordinance shall be accompanied by a filing fee in the amount set forth by resolution of the County Court. Such fees shall be non-refundable.

### **SECTION 1109 CONVERSION OF AGRICULTURAL LANDS (EXCEPTIONS)**



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## **ARTICLE\_11: ADMINISTRATIVE PROVISIONS**

### **SECTION 1109.01**

Conversion of agricultural lands to uses not allowed by Goal 3 shall require an Exception and Plan amendment and shall be based upon consideration of the following factors:

- A. Reasons justify why the applicable Goal(s) should not apply.
- B. Areas which do not require a new Exception cannot reasonably accommodate the use.
- C. The long term environmental, economic, social and energy consequences resulting from the use 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 in an area requiring a Goal Exception other than the proposed site.
- D. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.



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## **ARTICLE\_12: GENERAL PROVISIONS**

### **SECTION 1201 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.





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## **ARTICLE\_12: GENERAL PROVISIONS**

### **SECTION 1202 SEVERABILITY**

The provisions of this Ordinance are severable. If any 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.



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## **ARTICLE\_12: GENERAL PROVISIONS**

### **SECTION 1203 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.
- B. Every day in which the location, erection, maintenance, repair, 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.
- C. Enforcement through statutory authority under ORS 215.185 or ORS 215.190: Penalty under statutory enforcement shall be determined by the appropriate statutory authority.



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## **ARTICLE\_12: GENERAL PROVISIONS**

### **SECTION 1204 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. 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 mailed to the last known owner of record of the subject parcel according to the tax account roles of the Baker County Assessor.

The owner shall be given 10 days from the date of receipt to contact Baker County concerning remedy of the infraction. If there is no such contact, violation will commence on the 11th day of 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.



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## **ARTICLE\_12: GENERAL PROVISIONS**

### **SECTION 1205 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.