Rev Date: July 6, 2022

**MORROW** **COUNTY**

**LAND** **USE** **INFORMATION** **SHEET**

**RE:** **Utility** **Facilities** **including** **Power** **Generation**

**Utility** **Facility** **Transmission** **Lines**

**Utility** **Service** **Lines**

The purpose of this information sheet is to clarify the definitions and processes for permitting utility facilities and utility facility service lines or transmission lines, in Morrow County. The permitting process varies depending upon the precise definition of the proposed use. Applicants are encouraged to coordinate with staff to concur about the appropriate definition and use category and then proceed with the appropriate permit application.

**DEFINITIONS MCZO Article 1 Section 1.030**

**Utility Facility Necessary for Public Service**

“Any facility owned or operated by a public, private or cooperative company for the transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including major trunk pipelines, water towers, sewage lagoons, cell towers, electrical transmission facilities (except transmission towers over 200’in height) including substations not associated with a commercial power generating facility, and other similar facilities.”

**Utility Facility service lines.** Utility lines of the necessary voltage to serve the area, including those up to 230 kilovolts, and associated facilities or structures that ultimately end at the point where the utility service is received by the customer, and that are located on one or more of the following:

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

**Net Metering Power Facility.** A facility for the production of energy that:

1. Generates energy using means such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but no including the production of biofuel in all zones which allows “Farm Use” and in the Exclusive Farm Use zone;
2. Is intended to offset part of the customer-generator’s requirements for energy;
3. Will operate in parallel with a utility’s existing transmission and distribution facilities;
4. Is consistent with generating capacity regulations as well as any other applicable requirements;
5. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

**Non-commercial/Stand Alone Power Generating Facility**. A facility for the production of energy that is similar to a net metering power facility except that:

1. Is intended to provide all of the generator’s requirements for energy for the tract or the specific lawful accessory use that it is connected to; and
2. Operates as a standalone power generator not connected to a utility grid.

**APPLICABLE OREGON LAWS AND ADMINISTRATIVE RULES**

**ORS 215.283 (1) Uses permitted in exclusive farm use zones in nonmarginal lands counties [Morrow County].**

**(1)(c)** “Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275.”

**(1)(i)** “Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels created.”

**(1)(u)** “Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(A) A public right of way;

(B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(C) The property to be served by the utility.”

**ORS 215.283 (2) The following nonfarm uses may be established, subject to the approval of the governing** **body or its designee in any area zoned for exclusive farm use subject to ORS 215.296.**

**(2)(g)** “Commercial utility facilities for the purpose of generating power for public use by sale.”

**(2)(m)** “Transmission towers over 200 feet in height.”

**ORS 215.296 Standards for approval of certain uses in exclusive farm use zones . . .**

**(1)** “A use allowed under …. ORS 215.283 (2) may be approved only where the local governing body or its designee finds that the use will not:

**(a)** Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

**(b)** Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.”

**(2)** “An applicant for a use allowed under …. ORS 215.283 (2) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.”

**ORS 215.274 Associated Transmission Lines**

1. As used in this section has the meaning given that term in ORS 469.300.
2. An associated transmission lines is necessary for public service if an applicant for approval under ORS 215.283(1)(c)(B) demonstrates to the governing body of a county or its designee that the associated transmission line meets:
   1. At least one of the requirements listed in subsection (3) of this section; or
   2. The requirements described in subsection (4).
3. The governing body of a county or its designee shall approve an application under this section if an applicant demonstrates that the entire rout of the associated transmission line meets at least one of the following requirements:
   1. The line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
   2. The line is co-located with an existing transmission line;
   3. The line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.
4. Except as provided in subsection (3) of this section, the governing body of a county or its designee shall approve an application under this section if, after an evaluation of reasonable alternatives, the applicant demonstrates that the entire route of the associated transmission line meets two or more of the following factors:
   1. Technical and engineering feasibility;
   2. The associated transmission line is locationally dependent because the line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
   3. Lack of an available existing right of way for a linear facility, such as a transmission line road or railroad, that is located above the surface of the ground;
   4. Public health and safety; or
   5. Other requirements of state or federal agencies.

(b)The applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surround farmland.

(c) The governing body of a county or its designee may consider costs associated with any of the factors listed in paragraph (a) of this subsection, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

Note: 215.274 was added to and made a part of ORS chapter 215 by legislative action but was not added to any smaller series therein.

**ORS 469.300 (3) “**Associated Transmission lines” means new transmission lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

**ORS 215.275 Utility facilities necessary for public service; criteria; mitigating impact of facility**

**(1)** “A utility facility established under . . . ORS 215.283(1)(c) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

**(2)** To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.283(1)(d) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors….”

**(a)** **…..** **(f)** **(3)** **….** **(6)**

**ORS 215.446 Wildlife Habitat Mitigation Plan and Cultural Resources Review and Documentation** required for facilities:

101-160 acres of high-value farmland (ORS 195.300)

101 – 1280 acres of land that is predominantly composed of soils that are in capability classes I to iv

321-1920 acres of any other land

**OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses on** **Agricultural Lands**

**(5)** “Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

4 (b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.”

**(16)(a)** A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that utility facility is necessary, an applicant must show that reasonable alternatives have been considered ant that the facility must be sited in an exclusive farm use zone due to one or more of the following factors: **(A-F)** **and** **(b-g)**

**(17)** . . . Permanent features of 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 ORS 197.732 and OAR chapter 660, division 4.

**(22)** . . . Permanent features of a power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

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

(A) A public right of way;

(B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(C) The property to be served by the utility.”

**(37)** For purposes of this rule a wind power generation facility includes . . . **(a-d)**

**(38)** A proposal to site a photovoltaic solar power generation facility . . . **(a-j)**

(g) – (j) is new from HB 2324 (2019)

(g) > 12 acre High value Farmland.

(h) Facility on high-value farmland.

(i) < 20 acres) facility on arable land.

(j) Facility on nonarable land (<320 acres).

(k) Exceptions to the acreage and soil thresholds subject to Goal 2.

(l) Right to Farm Covenants required.

(m) County may require a decommissioning bond or other security.

**OAR 660-006-0025 Uses Authorized in Forest Zones**

**(4)** The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:

(q) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width;

**(5)** A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel: and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsections (4) (e), (m), (s), (t) and (w) of this rule.

**PERMITTING JURISDICTION SUMMARY**

* **Power Generation Facility <25 MW** is permitted by county. The permit type varies depending on the zoning, e.g. a Conditional Use Permit in an EFU Zone.
* **Power Generation Facilities > 25 MW** are permitted by the Oregon Energy Facility Siting Council (EFSC) with input form local jurisdictions. Per HB 2021 EFSC is prohibited from processing new site certificates or amendments to fossil fuel powered facilities.
* **Wind Facilities > 105 MW**

Site Certificate through Oregon Energy Facility Siting Council, OAR Chapter 345

* **Solar Facilities > 100 acres </=160 acres on high value farmland** is county jurisdiction.
* **Solar Facilities > 100 acres </=1,280 acres on cultivated soil classification I to IV,** county jurisdiction.
* **Solar Facilities >320 acres or <= 1,920 “other” lands farmland** is county jurisdiction.
* **All other Solar Facilities** are EFSC jurisdiction.
* **Transmission Lines of 230kV or more, and ten miles or more**

Site Certificate through Oregon Energy Facility Siting Council, OAR Chapter 345

**LOCAL PERMITTING PROCESS SUMMARY**

**\* Conditional Use Permits and Land Use Decisions are processed as Administrative Decisions with public notice or they are reviewed by Planning Commission.**

**\* Zoning Permits** are processed by staff and include a site plan review.

**Permitting Requirements By Zone Morrow County**

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| **EFU** **RESOURCE** **ZONE** | **MCZO** | **PERMIT** | **ORS/OAR** |
| Utility Facility Service Line | 3.010  (B)(24)  and D.9 | Zoning Permit subject to notice and findings | ORS 215.283 (2) (g) & 215.296 OAR 660-33-130 (5) & (17 or 22) |
| Utility Facilities Necessary for Public Service, including Associated transmission lines…” | 3.010  (B)(25) | Land Use Decision | ORS 215.283 (1) (c), ORS 215.274, ORS 215. 275 & OAR 660-33-130 (16) |
| Utility and Transmission Towers > 200 feet in Height | 3.010  (C)(21) | Conditional Use | ORS 215.283 (2) (m) & 215.296 & OAR 660-33-130 (5) |
| Wind Power Generation Facility as commercial utility facilities for the purpose of generating power for public use by sale | 3.010  (C)(23)  & Section K.2 | Conditional Use Permit. Note: EFSC Site Certificate if >105MW EFSC, local CUP – no public process | OAR Chapter 345, Divisions 001, 015, 020, 021, 022, 023, 024 & 026 |
| Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power gen facilities or solar facilities | 3.010(22)  & Section K.1 | Conditional Use | ORS 215.283(2) |
| Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use | 3.010  (C)(24)  & SectionK.3 | Conditional Use | ORS 215.283(2) |
| Transmission Lines ≥ 230 kV and > 10 miles in length |  | Site Certificate through EFSC | OAR Chapter 345, Divisions 001, 015, 020, 021, 022, 023, 024 & 026 |
| Met Tower or Temporary Met Tower |  | ? |  |

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| **FOREST USE ZONE** | **MCZO** | **PERMIT** | **ORS/OAR** |
| Local distribution lines (e.g. electric, telephone, natural gas) and accessory equipment…. | 3.020  (B)(6) | Zoning Permit |  |
| Television, microwave and radio communication facilities and transmission towers | 3.020  (C)(17) | Condition Use Permit |  |
| New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 777.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights of way 50 feet or less in width. | 3.020  (C)(18) | Conditional Use Permit |  |

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| **OTHER** **ZONES** **Transmission** **Line** **and/or** **Utility** **Facilities** | **MCZO** | **PERMIT** | **ORS/OAR** |
| **Port Industrial**  “Power Generating & utility facilities”  “Any other Industrial Uses in ORS 777.250 | 3.073  (A)(9)  (A)(12) | Zoning Permit  Zoning Permit |  |
| **Airport Light Industrial**  “utility structures”  Airport Industrial | 3.076  (C)(4)  3.071 | Zoning Permit  N/A |  |
| **Space Age Industrial**  “Utility facility service lines including accessory facilities or structures that end at… customer…”  “Utility facility necessary for public service...”  “Trans towers over 200’ in height” | 3.072  (C)(2)  (D)(9)  (E)(3) | Zoning Permit  Zoning Permit w/standards  Conditional Use |  |
| **Rural Light Industrial Zone**  “Utility structure”  “Utility yard” | 3.075  (B)(1)(e)  (B)(1)(f) | Zoning Permit  Conditional Use |  |
| **General Industrial (MG)**  “Utility, transmission and communication towers less than 200’ in height”  “Utility, transmission and comm towers >200 feet in height”  “Other uses similar to...” | 3.070  (A)(15)  (B)((2)  (B)(18) | Zoning Permit  Conditional Use  Conditional Use |  |
| **Rural Service Center (RSC) Zone**  “Utility facility”  “Other buildings and uses similar to..” | 3.030  (A)(8)  (B)(12) | Zoning Permit  Conditional Use |  |
| **Umatilla Depot Wildlife Habitat Zone**  “Utility facilities and roads …”  “Commercial solar power generation”  **Umatilla Army Depot Military Zone**  “Military Uses …”  **UMCD PI Limited Use Overlay** | 3.035  (A)(5)  (B)(6)  3.074  (B)  3.120 (A) | Zoning Permit  Conditional Use  Outright (no ZP in this zone)  Zoning Permit | Uses allowed on roads and in bunkers only. See ORD 2014-04 |
| **Rural Residential (RR 1)**  “Utility facility necessary to serve the area or county.” | 3.040  (A)(3) | Zoning Permit |  |
| **Farm Residential (FR 2)**  “Utility Facility necessary to serve the area or county.” | 3.041  (A) (3) | Zoning Permit |  |
| **Rural Residential Ten (RR-10)**  “Utility Facility necessary to serve the area or county.” | 3.043  (C)(4) | Conditional Use Permit |  |
| **Suburban Residential (SR -1)**  “Utility facility necessary for public service” | 3.050  (B)(6) | Conditional Use Permit |  |
| **Suburban Residential 2A (SR-2A)**  “Utility facility, power lines, irrigation pipelines and ditches, pump stations and sewer treatment facilities.” | 3.051  (C)(4) | Conditional Use |  |
| **General Commercial (GC)**  “Utility Substation”  “Public or semi-public use and public utility facility” | 3.060  (B)(4)  (B) (19) | Conditional Use  Conditional Use |  |
| **Tourist Commercial (TC)**  “telecommunications equipment” | 3.061  (B) | Conditional Use |  |
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:/Planning/Energy/Morrow County MORROW COUNTY FacilityInformation&Table July 2022