

CHAPTER 9 - SPECIAL USE STANDARDS

ARTICLE 90 - BASIC STANDARDS

90.010 - PURPOSE

The purpose of this Chapter is to establish supplementary development standards for land uses that present unique or complex land use planning opportunities or constraints.

90.020 - APPLICATION

The standards in this Chapter relate to special characteristics of the uses and, unless otherwise specified, are to be applied in addition to all other applicable standards prescribed in this Code. In the event that the standards contained in this Chapter differ from other applicable standards in this Code, the more stringent shall apply.

ARTICLE 91 - AGGREGATE STANDARDS

91.010 - PURPOSE

The purpose of this Article is to implement and supplement the Zones where aggregate use or processing is allowed as a Permitted, Administrative, or Conditional Use. This Article sets out the standards for the development and operation of aggregate or other mineral site(s). These standards shall be used in the Site Plan Review process and when a land use application is pending. Grant County recognizes the importance of protecting and utilizing the mineral and aggregate resources in the County. Residents of this Zone should recognize that the intent of this Zone is to protect resource activities, and that in the event of a conflict between residential use and resource practices this Code will be interpreted in favor of the resource practice.

91.020 - DEVELOPMENT STANDARDS

Exploration, mining, and processing of aggregate, mineral, or subsurface resources, including development of geothermal resources, conditioned on, but not limited to, the following criteria:

- A. An access or service road, while used for the mining shall be maintained by the operator, to meet the most current air quality standards set out by the Department of Environmental Quality, for a distance of 500 feet from public roads or streets or residences located on adjoining property. If the mining is the primary cause of road dust on an unpaved public road, that road shall be maintained to meet the most current air quality standards set out by the Department of Environmental Quality, for 500 feet from such residences. If more than one mining operation uses the same road, all operators shall be jointly responsible for dust abatement;
- B. Buffering of a mining or construction site with berms may be required by the Review Body to obscure the view, minimize dust, reduce the sound from mining, or limit other annoyances to adjoining and occupied public or private property, State Scenic Waterways, and adjacent public roads;
- C. Safe parking shall be available on-site for employees, customers, and visitors to the mining site;
- D. A safety fence to control access to the pit may be required at least 10 feet outside a pit that is within 200 feet of a public road, street or residence;
- E. Erosion control and reclamation of the site shall be accomplished in accordance with the standards of Article 83 when applicable, and all applicable permit requirements from the

Oregon Department of Geology and Mineral Industries (DOGAMI) and the Department of Environmental Quality (DEQ);

- F. Excavation shall be away from the property line(s) of the site, at a distance adequate to maintain a fence on the property line, if needed, and any additional distance necessary to allow a normal safe angle of repose during the operation, and to meet all the requirements of the operating permit and the reclamation plan approved by DOGAMI;
- G. New development shall be compatible with, and not adversely impact, commercial agricultural or forestry operations on adjoining lands;
- H. The proposed development shall be located on land generally unsuitable for commercial agricultural or forestry operations for developments located in resource zones;
- I. When an aggregate operation remains unused for beyond 30 years, it may be restarted through the issuance of a Conditional Use Permit which will require Site Plan Review processed as a Type II Review Procedure under Section 22.040;
- J. All operations shall comply with all applicable federal and state laws, rules, and requirements.
- K. The proposed aggregate site must be listed on the County's Inventory of Aggregate Sites in accordance with OAR 660-016-0030, Statewide Planning Goals, Goal 5.

91.030 - PROCESSING STANDARDS

Cement and asphalt batching, and rock processing and crushing, are subject to the following standards:

- A. No plant shall operate without an approved Air Contaminant Discharge Permit, issued by the Department of Environmental Quality;
- B. No portable cement or asphalt batching plant shall operate for a period greater than 180 days at a single site within a calendar year. Where processing is a permitted use in the Zone, a permanent plant will be allowed;
- C. If buffering of the processing site is necessary to obscure the view or minimize dust or other annoyance from adjoining occupied property and adjacent public streets, identify the type, size, height, and location of the method of buffering proposed;

- D. Commitment that if a malfunction of the air pollution control equipment occurs, the plant shall be shut down within one hour of the malfunction, and shall not resume operation until the problem has been resolved;
- E. Dust from other sources, such as the pit floor or gravel piles, shall be controlled to meet current air quality standards set by the Department of Environmental Quality;
- F. Equipment shall be operated only between the hours of 7 a.m. and 6 p.m.;
- G. The proposed development shall be compatible with, and not adversely impact, commercial agricultural or forestry operations on adjoining land;
- H. The proposed development shall be located on land generally unsuitable for commercial agricultural or forestry operations for developments located in the Resource Zones;
- I. All operations shall comply with all applicable federal and state laws, rules, and requirements.

91.040 - SETBACKS

- A. Whenever practical, a crushing operation shall not be located closer than 1500 feet from any property line which abuts a Rural Residential Zone.
- B. The setback for structures from a significant aggregate or mineral site shall be 1500 feet from the property line. Requests for structures closer than 1500 feet from the property line of a significant aggregate or mineral site shall be subject to the Administrative Permit process and the owner of the aggregate or mineral site will be notified of the proposal. If there is no objection, development may proceed. If there is a conflict, the request shall be referred to the Review Body or Hearings Officer.
- C. Before a development permit will be issued on any lot adjacent to a significant aggregate site, the owner of the adjacent lot shall sign and file a notarized statement recognizing that in the event of a conflict between the proposed use and the aggregate operation, the aggregate operation shall take precedence and normal operations will not be considered a nuisance. The notarized statement will be recorded on the deed for that parcel or lot.
- D. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed. Operations for batching and blending of mineral and

aggregate under local land use approval on October 3, 1989, or a subsequent renewal of an existing approval are exempt from this Subsection.

ARTICLE 92 - HOME OCCUPATIONS

92.010 - PURPOSE

The purpose of this Article is to ensure that home occupations conducted on residentially developed property are compatible with the neighborhood in which they are located, and maintain the character and appearance of both the use and the neighborhood. A home occupation shall not run with the land and may not be assumed by a new owner without Planning Department approval.

92.020 - TYPE II CRITERIA

All Home Occupations which meet the following criteria, shall be subject to plot plan review and processed as a Type II Review Procedure under Section 22.040:

- A. The home occupation shall be subordinate and incidental to the residential use of the property;
- B. The home occupation shall not give the outward appearance of a business;
- C. A home occupation shall be conducted by the resident(s) of the property on which the business is located;
- D. No employees are allowed;
- E. The home occupation must be conducted within a dwelling which is the actual residence of the person engaged in the occupation, or in an accessory building which is normally associated with uses permitted in the zoning classification of the property;
- F. No outside storage is permitted;
- G. No alteration of any building(s) shall be made which changes the character of the building(s) so as to make them unusable or incompatible with any uses normally permitted in the zoning classification of the property;
- H. No home occupation shall require alteration of the structure or involve construction features or the use of electrical or mechanical equipment that would change the character of the structure under the Uniform Building Code;

- I. Equipment used in the home occupation shall not interfere either visibly or audibly with reception of communication or video equipment used by adjoining neighbors or cause substantial fluctuations in the line voltage outside of the home occupation;
- J. No outside parking or storage of more than two vehicles or two pieces of heavy equipment (more than 12,000 pounds) used as a part of the business is allowed;
- K. One non-illuminated identification sign not exceeding six square feet is permitted;
- L. No significant sight, sound, smell, vibration, traffic, or other impacts associated with the operation of the home occupation shall be detectable outside of the property lines;
- M. Off-street parking shall be provided to accommodate clients in accordance with Article 75;
- N. No materials or commodities shall be delivered to or from the property of such bulk or quantity as to require delivery by a commercial vehicle or trailer (exceeding 2.5 tons GVW) not including a licensed parcel service or United States Mail;
- O. No retail sales shall be allowed;
- P. There shall not be more than one home occupation authorized at any property location;
- Q. The home occupation shall be conducted in accordance with all local, state, and federal requirements to include proper permits for all structures, sanitation facilities, and water uses.

92.030 - PLANNING COMMISSION REVIEW OPTIONAL

- A. Home Occupations approved under this Section shall be reviewed and processed as a Type II Review Procedure under Section 22.050. The Planning Director may choose to refer the request to a Hearing Body because of possible adverse impacts and/or opposition based on applicable criteria. Such a hearing is deemed to be in the public interest in order to provide public involvement in the land use process.
- B. Home Occupations which do not meet the standards of Section 92.020, may be approved under Section 92.030(A), subject to the following criteria:

1. A Home Occupation may be approved which is contrary to section 92.020 (D), (E), (F), (L), (N), (P), and (Q), where the use will not infringe on the continued residential use of adjoining properties and the character of the neighborhood;
2. Retail sales shall be allowed, but limited as an activity incidental or secondary to the primary home occupation;
3. No more than five persons other than resident(s) occupying the dwelling shall be employed full or part time to assist the resident. Any person associated with the home occupation performing any phase of the business on-site shall be considered an employee. In all cases the business shall be operated by a resident of the property;
4. Any use of a home occupation conducted outside of a structure shall be screened from view so that it is not visible from the adjacent residences.

92.040 - ANNUAL REVIEW

All home occupation permits shall be reviewed annually. If a home occupation fails to maintain the standards of this Code, the permit may be revoked.

92.050 - BED & BREAKFAST STANDARDS

- A. A Bed and Breakfast Inn shall be reviewed and processed as a Type II Review Procedure under Section 22.050, unless the Planning Director chooses to refer the request to a Hearing Body because of possible adverse impacts and/or opposition based on applicable criteria. Such a hearing is deemed to be in the public interest in order to provide public involvement in the land use process:
1. A Bed and Breakfast Inn must be located in a residence or guest house;
 2. The owner or operator of the Bed and Breakfast Inn must live on the property;
 3. Any permit granted under this Section shall be subject to revocation by the Review Body or Hearings Officer if it is determined that the application includes false information, or if the conditions (as originally specified or subsequently amended) have not been complied with. The Review Body or Hearings Officer is authorized to add or modify existing conditions.
- B. The following criteria must be satisfied for a Bed and Breakfast Inn to be approved:

1. Outward modification of the structure shall be made only if such changes are compatible with the character of the neighborhood and the intent of the Zone. In all cases, the changes shall maintain the residential character of the structure;
2. The number of rented bedrooms shall not exceed two except as follows:
 - a. The Bed & Breakfast Inn has approved sanitation and water facilities which will allow more bedrooms;
 - b. The number of bedrooms shall further be limited by the overall size of the residence;
 - c. The maximum number of bedrooms is determined by dividing the gross interior floor area of the residence by 700 feet;
 - d. The use shall further be limited to a maximum of 10 guests and five bedrooms;
 - e. The Bed & Breakfast Inn will be compatible with the neighborhood in terms of access, and the proximity to structures and the operation is screened from view from adjoining lots or parcels.
3. One on-premise sign which meets the requirements of Section 74.020 may be approved for the use;
4. Exterior illumination of the sign shall be limited so that the illumination will not adversely impact the residential character of the area;
5. One off-street parking space for each sleeping room shall be provided in addition to the two off-street parking spaces required for the dwelling;
6. The Bed and Breakfast Inn must meet all applicable County and State water, sewage, and licensing requirements. The applicant shall submit evidence from the appropriate agency that the applicant has contacted them and is or shall be complying with the requirements;
7. In the event the criteria of this Section conflicts with those contained in other Sections of this Code, the criteria of this Section shall apply.

ARTICLE 93 - ARCHEOLOGICAL RESOURCES

93.010 - PURPOSE

The purpose of this Article is to establish provisions to mitigate adverse impacts to archeological resources and to prescribe the means by which archeological sites are assessed and protected.

93.020 - EFFECT OF DISCOVERY & DETERMINATION

Whenever a land use action is proposed for a lot that has a significant archaeological site, the following shall occur:

- A. The applicant shall be notified that the site has been determined to contain a significant archaeological resource;
- B. No alteration to the site shall occur for 30 working days during which time the Planning Director shall notify the appropriate agencies;
- C. If, during this 30 day period, the notified agency or archaeologist determines that no significant change in the site will occur, resumption of development may occur;
- D. If, at the conclusion of the 30 day period, no recommendation is issued by the agency or archaeologist, no conflict with the archaeological resource is presumed and the project may proceed;
- E. If the development is determined to have a significant effect on the archaeological value of the site, the development shall be delayed an additional 30 days to:
 1. Notify an appropriate agency to consider acquisition; and
 2. Refer the request to the Planning Commission for a public hearing to determine the economic, social, environmental, and energy (ESEE) consequences in accordance with OAR 660-16-005(2) and a proper course of action which will be one of the following:
 - a. Protect the archaeological resource;
 - b. Allow the requested alteration;
 - c. Mitigate any detrimental effects of the request.

- F. If the Planning Commission decides that detrimental effects of the alteration need to be mitigated, the Commission will attach conditions to the development permit (such as alteration of the development plan or setbacks for roads and structures away from the resource site) to assure that the development is compatible with the archaeological resource;

- G. If the Planning Commission determines that the archaeological site constitutes a 3A resource as defined by OAR 660 16 010(1), the development shall be delayed for an additional 30 days while the appropriate agency seeks a buyer for the property. If no action occurs within 30 days, the development may proceed.

ARTICLE 94 - HISTORIC BUILDINGS & SITES

94.010 - PURPOSE

The purpose of this Article is to establish provisions for the review of development proposals affecting identified historic properties.

94.020 - REVIEW PROCEDURE

Whenever a land use action is proposed for a lot or structure that has been designated as a primary historic site on the official map, the following shall occur:

- A. The applicant shall be notified that the site or structure has been designated as a historic site;
- B. No alteration to the site or structure shall occur for 30 working days during which time the Historic Review Committee shall be notified of the proposed action:
 - 1. "Alteration", for the purposes of this Section, shall mean any exterior modification requiring a demolition permit or development permit.
- C. If, during this 30 day period, the Historic Review Committee determines that no conflict with the historic site will occur, resumption of development may occur:
 - 1. The Historic Review Committee shall determine no conflict exists if the alteration proposed is determined to be harmonious and compatible with the historic resource with respect to style, scale, texture, and construction materials, and/or finds that the alteration will enhance the historical value of the resource;
 - 2. The Historic Review Committee shall determine a conflict exists if the alteration will prove to be out of character with, or will otherwise reduce, the resource's value or historic significance.
- D. If at the conclusion of the 30 day period, no recommendation is issued by the Historic Review Committee, the project may proceed, if the Planning Director determines that there is no conflict, pursuant to criterion 94.020(C);
- E. If the development is determined to have a significant effect on the historic value of the site, the development shall be delayed an additional 30 days to:

1. Notify an appropriate agency to consider acquisition; and
 2. Refer the request to the Planning Commission for a public hearing to determine the ESEE consequences in accordance with OAR 660 16 005(2) and a proper course of action which will be one of the following:
 - a. Protect the historic resource;
 - b. Allow the requested alteration;
 - c. Mitigate detrimental effects of the request.
- F. If the Planning Commission decides that detrimental effects of the alteration need to be mitigated, the Planning Commission will attach conditions to the development permit to assure that the alteration is harmonious and compatible with the historic resource with respect to style, scale, texture, and construction materials;
- G. If the Planning Commission determines that the historic site constitutes a 3A resource, defined by OAR 660-16-010(1) (i.e., a resource that should be protected), the alteration (including demolition) shall be delayed for an additional 30 days while the Historic Review Committee seeks a buyer for the structure. If no action occurs within 30 days, the alteration may proceed;
- H. Development on parcels located adjacent to properties in the National Register of Historic Places shall be subject to Site Plan Review to ensure compatibility.

ARTICLE 95 - HYDROELECTRIC & TRANSMISSION FACILITIES

95.010 - PURPOSE

The purpose of this Article is to establish standards for siting of an energy facility and related facilities and equipment.

95.020 - REVIEW PROCEDURE

Hydroelectric facilities and electric power transmission facilities may be approved subject to demonstration that all necessary State and Federal permits, licenses, exemptions, or variances are approved.

95.030 - REVIEW CRITERIA

Approval shall be subject to the following:

- A. In addition to the requirements of the underlying Zone, the applicant shall demonstrate the following:
 - 1. The facility is sited on land that is generally unsuitable for forest use, or the use of forest areas is warranted for the safe, economical, and efficient operation of the facility;
 - 2. Will not significantly affect forest uses on the site or surrounding land;
 - 3. Will not alter the stability of the land use pattern in the area;
 - 4. Will be consistent with the forest policies of the Comprehensive Plan;
 - 5. Is located in an area in which the use is designated as appropriate by the Zone. If the use is not listed in a Zone, an energy facility shall not be approved unless the Zone is amended;
 - 6. Will comply with provisions applicable to archaeological and historical sites (Articles 93 and 94), the Flood Hazard Overlay (Article 69.1), the Wild and Scenic Rivers Overlay (Article 69.3), and Airport Overlay (Article 69.4);
 - 7. Will incorporate mitigation and conditions to protect Class I and Class II streams and wetlands, and the banks and vegetation along those streams and wetlands;

8. Will avoid areas of steep slopes where cuts and fills are required and shall use natural contours;
 9. Will not interfere with communication signals;
 10. Will do one of the following:
 - a. Produce 100 theoretical horsepower (thp) or less;
 - b. Will take and return water to a constructed water conveyance without increasing the use of surface and groundwater;
 - c. Other small scale facilities generating a maximum capacity of five megawatts;
 - d. Shall not increase maximum surface area of an impoundment at an existing dam or diversion, or does not impound more than two acre feet at a new impoundment or diversion;
 - e. Shall not impede fish management unless improvement in management will result;
 - f. Shall not require more than one mile of new vehicular access road;
 - g. Shall not require construction of a transmission line that results in clearing of a right-of-way or easement exceeding one mile in length or 50 feet in width in a Forest Commercial Zone.
 11. The facility meets all necessary state and federal siting requirements, including any setbacks from dwellings.
- B. Standards for a Conditional Use for Hydroelectric Facilities. In addition to the standards or conditions in Sections 46.030 and 95.030(A), the following standards shall apply:
1. The facility shall not have a significant adverse effect on endangered or threatened fish, wildlife, or plant species, or their critical habitats, or on other significant habitats identified in the Comprehensive Plan;

2. Development shall be set back from the edge of public roads, viewpoints, and other significant visual resources identified in the Comprehensive Plan;
 3. An in-stream tower may be permitted in Class I and II streams if it can be demonstrated that adjoining towers and conductors cannot safely and economically support the transmission lines spanning the stream and if the transmission line cannot be safely and economically placed under the water or streambed.
- C. Protected Areas. An energy facility may not be sited in the areas listed below unless all of the following apply:
1. The energy facility is accessory to a permitted use; and
 2. Authority is granted by the managing agency; and
 3. Applicant provides resources equal or better in quantity and quality than those affected by the energy facility; and
 4. The above apply in the following protected areas:
 - a. All state and federally designated and managed areas, waysides, parks, and areas of critical concern, including scenic waterways, wildlife refuges, and wild fish streams, designated by the Oregon Department of Fish and Wildlife;
 - b. Areas containing significant resources, habitats, scenic views and sites, and cultural, botanical, or recreational sites, that cannot be protected from the adverse consequences of the facility;
 - c. Hydroelectric dam or diversion is not permitted in a scenic waterway or adjacent lands designated pursuant to ORS 390.825.

ARTICLE 96 - DESTINATION RESORTS

RESERVED FOR EXPANSION

The State Land Use laws require the County to undertake an extensive evaluation of potential Destination Resort sites utilizing specific criteria and siting standards. The County has not completed this process. Individual Destination Resorts cannot be permitted until this required process has been completed and accepted by the State.

ARTICLE 97 - RECREATIONAL RESORTS

RESERVED FOR EXPANSION

ARTICLE 98 - CAMPGROUNDS, RV PARKS, & LODGES

98.010 - PURPOSE

The purpose of this Article is to set the standards for the development of campgrounds, recreational vehicle parks, lodges and conference grounds. It is recognized that each of the proposed uses may entail intensive development which may include permanent structures. The level of detail required will be determined by the intensity of development.

98.020 - SITING STANDARDS

Recreational development shall meet the following siting standards:

- A. No recreation development shall be located within or adjacent to any area identified in the Comprehensive Plan for Grant County as a natural area or potential research natural area where the development would result in damage or overuse of the natural area;
- B. No recreation development shall be located in or adjacent to an area of known valuable mineral deposits where the development would restrict development of the mineral resource, unless the area has been withdrawn from mineral entry;
- C. Demonstrate that the proposed site is not suited for continued resource management, and that the proposed development is compatible with adjacent resource uses;
- D. Demonstrate that the proposed project meets the public recreation needs and tourism needs identified by the Grant County Comprehensive Plan;
- E. The project abuts a maintained state or county road. The proposal may abut a federal road where the applicant has proof of a long-term access agreement for the proposed use from the appropriate federal agency.

98.030 - APPLICATION REQUIREMENTS

- A. The application for a campground, recreational vehicle park, lodge, or conference ground shall meet the requirements set out in the underlying Zone.
- B. The application for a campground, recreational vehicle park, lodge, or conference ground shall be processed according to the requirements set out in the underlying Zone.

- C. The application for a campground, recreational vehicle park, lodge, or conference ground shall include the submission of a site plan for the recreational development.

98.040 - UTILITIES & SERVICES FOR RECREATIONAL DEVELOPMENT

- A. Campgrounds involving overnight use shall be developed as "dry camps", or shall include a water system meeting State water quality standards:
 - 1. If groundwater is to be used as a source of supply, withdrawal for the campground shall not result in depletion of groundwater storage, interfere with springs, or result in a cone of depression which interferes with previously existing agricultural or residential wells.
- B. The proposed recreational development shall meet all state and local building, health, sanitary, and environmental health standards and shall be licensed as appropriate.

ARTICLE 99 - SOIL REMEDIATION & TOXIC WASTE INCINERATION

RESERVED FOR FUTURE USE TO DEVELOP STANDARDS REGULATING THE SITING OF SOIL REMEDIATION PLANTS AND TOXIC WASTE INCINERATORS. UNTIL THE STANDARDS ARE DEVELOPED, NEW APPLICATIONS FOR SUCH A FACILITY SHALL NOT BE PROCESSED USING THE SIMILAR USE PROVISIONS IN SECTION 60.060, IN THE RURAL AREA OF GRANT COUNTY. THE DEFINITIONS USED BY THE FEDERAL GOVERNMENT AND THE STATE OF OREGON IN ORS AND OAR SHALL BE USED IN PROCESSING AND REQUESTED TEXT AMENDMENT UNLESS NEW DEFINITIONS ARE DEVELOPED AND APPROVED.

CHAPTER 10

RESERVED FOR FUTURE USE TO DEVELOP RESIDENTIAL, COMMERCIAL AND INDUSTRIAL ZONING REQUIREMENTS FOR SPECIAL DISTRICTS, SERVICE DISTRICTS, CONTAINMENT BOUNDARIES, AND/OR RURAL COMMUNITIES WHEN THE OREGON ADMINISTRATIVE RULES ALLOWING RURAL COMMUNITY LEVEL DEVELOPMENT ARE APPROVED.