



# Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

2/4/2010

**TO:** Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** Morrow County Plan Amendment  
DLCD File Number 006-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

**DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL:** Tuesday, February 16, 2010

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

**Cc:** Carla McLane, Morrow County  
Jon Jinings, DLCD Community Services Specialist  
Jon Jinings, DLCD Regional Representative  
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA



FORM 2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within 5-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person  electronic  mailed

D  
A  
T  
E

JAN 28 2010

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

Jurisdiction: Morrow County

Local file number: AZ-016-09

Date of Adoption: January 20, 2010

Date Mailed: January 26, 2010

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 9/11/2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amend Article 6 of the Zoning Ordinance to include language allowing the Planning Director to issue a permit for an approved energy facility site certificate. The amendment specifically changes section 6.010 and adds Section 6.015

Does the Adoption differ from proposal? Please select one

Added in Section 6.010 "unless exempted by Section 6.015" In 1<sup>st</sup> sentence of Section 6.015 "and pays the requisite fee" was added. In Section 6.015 the last sentence was added.

Plan Map Changed from: n/a

to: n/a

Zone Map Changed from: n/a

to: n/a

Location: n/a

Acres Involved: n/a

Specify Density: Previous: n/a

New: n/a

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD file No. 006-09 (17827) [15959]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Morrow County  
ODOE  
DLCD

Local Contact: Carla McLane

Phone: (541) 922-4624 Extension:

Address: P.O. Box 40

Fax Number: 541-922-3472

City: Irrigon

Zip: 97844

E-mail Address: [cmclane@co.morrow.or.us](mailto:cmclane@co.morrow.or.us)

## ADOPTION SUBMITTAL REQUIREMENTS

**This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615 ).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845 ).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615 ).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

BEFORE THE MORROW COUNTY COURT  
OF MORROW COUNTY

AN ORDINANCE ADOPTING AMENDMENTS  
TO THE MORROW COUNTY ZONING  
ORDINANCE ARTICLE 6 CONDITIONAL  
USES.

COUNTY ORDINANCE

NO. MC. 01-2010

WHEREAS, ORS 203.036 authorizes Morrow County to exercise authority within the county over matters of County concern; and

WHEREAS, Morrow County adopted a Comprehensive Land Use Plan which was acknowledged by the Land Conservation and Development Commission on January 15, 1986; and

WHEREAS, Planning staff initiated changes to the Zoning Ordinance Article 6 Conditional Uses to add Section 6.015 authorizing issuance of a Conditional Use Permit to an applicant with an approved Site Certificate issued under Oregon Revised Statute 469.401(3) by the Energy Facility Siting Council; and

WHEREAS, the Planning Commission received comment and discussed certain options for meeting the requirements of Oregon Revised Statute 469.401(3) as discussed in the Planning Commission Final Findings of Fact; and

WHEREAS, the Morrow County Planning Commission held hearings to review the request on October 27, 2009, at the Morrow County School District Building in Lexington and on December 1, 2009, at the North Morrow County Annex Building in Irrigon, Oregon; and

WHEREAS, the Morrow County Planning Commission unanimously recommended approval of the request and adopted Planning Commission Final Findings of Fact; and

WHEREAS, the Morrow County Court held a hearing to consider the recommendation of the Morrow County Planning Commission on January 6, 2010, at the Morrow County Courthouse in Heppner, Oregon; and

WHEREAS, the Morrow County Court did consider the testimony and evidence presented to them;

NOW THEREFORE THE COUNTY COURT OF MORROW COUNTY ORDAINS AS  
FOLLOWS:

Section 1. Title of Ordinance:

This Ordinance shall be known, and may be cited, as the "Article 6 Conditional Uses 2010 Amendment."

Section 2 Affected Document

The Morrow County Zoning Ordinance Article 6 Conditional Uses is amended and shall be replaced in its entirety with the document identified as Exhibit 1.

Section 3 Effective Date

This ordinance shall be effective on February 1, 2010.

Date of First Reading: January 13, 2010

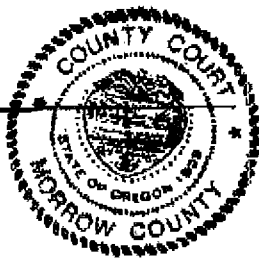
Date of Second Reading: January 20, 2010

DONE AND ADOPTED BY THE MORROW COUNTY COURT THIS 20th DAY OF JANUARY, 2010

ATTEST:

MORROW COUNTY COURT:

Bobbi Childers  
Bobbi Childers  
County Clerk



Terry K. Tallman  
Terry K. Tallman, Judge

Ken A. Grieb  
Ken Grieb, Commissioner

APPROVED AS TO FORM:

Ryan Swinburnson  
Ryan Swinburnson  
County Counsel

Leann Rea  
Leann Rea, Commissioner

**Final Planning Commission Findings of Fact  
Zoning Ordinance Amendment AZ-016-09  
Amended November 20, 2009**

**REQUEST:** To amend Article 6 Conditional Uses of the Zoning Ordinance to include language allowing the Planning Director to issue a permit for an approved energy facility with a valid Site Certificate as required in Oregon Revised Statute (ORS) 469.401(3).

---

**APPLICANT:** Morrow County  
**OWNER:** Not applicable  
**PROPERTY DESCRIPTION:** Morrow County unincorporated areas  
**PROPERTY LOCATION:** Morrow County unincorporated areas

**I SUMMARY OF APPLICATION AND PROCESS:**

Recently an amendment to the Shepherds Flat Wind Farm was approved by the Energy Facility Siting Council. The applicant for the project, Caithness Shepherds Flat, has indicated to Morrow County Planning staff that by the Spring of 2010 they will be requesting issuance of the requisite Conditional Use Permit from the County under ORS 469.401(3). This is currently problematic as the Morrow County Zoning Ordinance requires a hearing to issue a Conditional Use Permit and ORS 469.401(3) clearly prohibits the County from holding a hearing when issuing the required permit. One could call this the proverbial "Catch 22."

This action, an amendment to the Morrow County Zoning Ordinance, Article 6 Conditional Uses would insert language that would allow the Planning Director to issue such permit when a valid Site Certificate and the appropriate fee are submitted.

Significant discussion of this proposed amendment took place at the October 27, 2009, Planning Commission public hearing. Most of the discussion focused on the word "prompt" as found in ORS 469.401(3) and staffs interpretation. Planning staff, based on a recommendation from Department of Energy staff, have included language in proposed Article 6 that define "prompt" as two weeks with a desire to consider three or four weeks. Planning Commissioner Nelson feels that we do not have the ability to interpret "prompt" and assign it a numerical value or time frame. Sue Oliver, Department of Energy staff, testified and suggested that within 6.010 there needs to be a reference to the proposed 6.015 language identifying the proposed exemption. Planning Commissioners generally concurred with this proposal.

Based on the discussion at the October 27, 2009, public hearing Planning staff have made some suggested changes to the draft language attached to these Findings of Fact.

**II Morrow County Zoning Ordinance Article 8 Amendments Section 8.050. Burden and Criteria. The proponent of the application or permit has the burden of proving justification for its approval. The more drastic the request or the greater the impact of the application or permit on the neighbourhood, area, or county, the greater is the burden on the applicant. The following criteria shall be considered by the Planning Commission in preparing a recommendation and by the County Court in reaching their decision.**

**A. That conditions have changed since the adoption of the Comprehensive Plan and zoning map that warrant an amendment, or that there was a mistake in the original designation.**

There was no mistake in the original designation. In recent years a number of energy generation facilities have been approved by the Energy Facility Siting Council in the greater Columbia Plateau, including Morrow County. These approvals will require action by the County and our current Zoning Ordinance does not allow for a process that would be required under ORS 469.401(3). This amendment would allow the County to issue a Conditional Use Permit as required.

**B. That public services and facilities are sufficient to support a change in designation, including, but not limited to, streets and roads (refer to the Transportation System Plan and Transportation Planning Rule).**

**1. Amendments to the zoning ordinance or zone changes which significantly affect a transportation facility shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:**

- a. Limiting allowed land uses to be consistent with the planned function of the transportation facility or roadway;**
- b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,**
- c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel to meet needs through other modes.**

This action will not cause any change in the need for public services beyond that which is already allowed for in the Zoning Ordinance. There will be no change to streets and roads or other impacts to transportation as outlined in the Transportation System Plan. This action will not create the potential for any significant change in present uses beyond that for which the transportation facilities are already planned.

**2. A plan or land use regulation amendment significantly affects a transportation facility if it:**

- a. Changes the functional classification of an existing or planned transportation facility;**
- b. Changes standards implementing a functional classification;**
- c. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or**
- d. Would reduce the level of service of the facility below the minimal acceptable level identified in the Transportation System Plan. (MC-C-8-98)**

The proposed amendment would not affect any transportation facility. There will be no changes as outlined in a through d above.

**C. That the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports goals and policies of the Comprehensive Plan, that there is a public need for the proposal, and that the need will be best served by allowing the request. If other areas in the county are designated for a use as**

**requested in the application, then a showing of the necessity for introducing that use into an area not now so zoned and why the owners there should bear the burden, if any, of introducing that zone into their area.**

A stated Comprehensive Plan objective and policy is to evaluate the implementing ordinance of the Comprehensive Plan on a regular basis and make changes to documents in relation to changing public policies and circumstances, community, social, economical and environmental needs, and the workability, effectiveness and equity of the overall program in carrying out the intent thereof. This amendment will provide the necessary mechanism to approve a Conditional Use Permit as required under Article 6 Conditional Uses and the provisions of ORS 469.401(3).

**D. The factors listed in ORS 215.055 or others which relate to the public need for healthful, safe and aesthetic surroundings and conditions.**

ORS 215.055 has been repealed. Other factors concerning the health, safety and welfare of the Morrow County public could be considered.

- III **DLCD 45 DAY NOTICE:** September 11, 2009
- IV **PROPERTY OWNER NOTICE:** n/a
- V **LEGAL NOTICE:** Heppner Gazette Times and East-Oregonian  
October 14 and November 18, 2009
- VI **AGENCIES NOTIFIED:** Jon Jinnings and Larry French, Department of Land Conservation and Development; Tom Stoops, Oregon Department of Energy; Greg Sweek, Morrow County Assessor
- VII **HEARING DATES:**  
Planning Commission  
October 27, 2009  
Morrow County School District Building  
Lexington, Oregon  
  
December 1, 2009  
North Morrow County Annex Building  
Irrigon, Oregon  
  
County Court (tentatively)  
January 6, 2010  
Heppner, Oregon
- IX **RECOMMENDATION OF THE MORROW COUNTY PLANNING DEPARTMENT:**  
Recommend to the Morrow County Court approval of the amendment to Article 6 Conditional Uses of the Zoning Ordinance.



David Sykes, Chair

12/04/09  
Date

**Attachments:**

- Proposed Zoning Ordinance Article 6 language
- ORS 469.401 Energy facility site certificate; conditions; effect of issuance on state and local government agencies.



ARTICLE 6. CONDITIONAL USES

SECTION 6.010. AUTHORIZATION TO GRANT OR DENY

CONDITIONAL USES.

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 unless exempted by Section 6.015. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, a change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

**SECTION 6.015. REQUIREMENTS UNDER A STATE ENERGY FACILITY SITE CERTIFICATE.**

If a holder of an ~~Oregon State~~ a Site Certificate issued by the Oregon Energy Facility Siting Council requests a conditional use permit for an energy facility as outlined under ORS 469.401(3) and pays the requisite fee, the Planning Director shall issue such conditional use permit. The conditional use permit shall incorporate only the standards and conditions in Morrow County's land use and other ordinances as contained in the site certificate.

Option 1:

Issuance of the Conditional Use Permit shall be done in a timely manner promptly, not taking of not more than two weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received.

Option 2:

Issuance of the Conditional Use Permit shall be done in a timely manner promptly, not taking of not more than two three weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received.

Option 3:

Issuance of the Conditional Use Permit shall be done in a timely manner promptly, not taking of not more than two four weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received.

Option 4:

Issuance of the Conditional Use Permit shall be done in a timely manner promptly, not taking of not more than two four weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received.

**469.401 Energy facility site certificate; conditions; effect of issuance on state and local government agencies.**

(1) Upon approval, the site certificate or any amended site certificate with any conditions prescribed by the Energy Facility Siting Council shall be executed by the chairperson of the council and by the applicant. The certificate or amended certificate shall authorize the applicant to construct, operate and retire the facility subject to the conditions set forth in the site certificate or amended site certificate. The duration of the site certificate or amended site certificate shall be the life of the facility.

(2) The site certificate or amended site certificate shall contain conditions for the protection of the public health and safety, for the time for completion of construction, and to ensure compliance with the standards, statutes and rules described in ORS 469.501 and 469.503. The site certificate or amended site certificate shall require both parties to abide by local ordinances and state law and the rules of the council in effect on the date the site certificate or amended site certificate is executed, except that upon a clear showing of a significant threat to the public health, safety or the environment that requires application of later-adopted laws or rules, the council may require compliance with such later-adopted laws or rules. For a permit addressed in the site certificate or amended site certificate, the site certificate or amended site certificate shall provide for facility compliance with applicable state and federal laws adopted in the future to the extent that such compliance is required under the respective state agency statutes and rules.

(3) Subject to the conditions set forth in the site certificate or amended site certificate, any certificate or amended certificate signed by the chairperson of the council shall bind the state and all counties and cities and political subdivisions in this state as to the approval of the site and the construction and operation of the facility. After issuance of the site certificate or amended site certificate, any affected state agency, county, city and political subdivision shall, upon submission by the applicant of the proper applications and payment of the proper fees, but without hearings or other proceedings, promptly issue the permits, licenses and certificates addressed in the site certificate or amended site certificate, subject only to conditions set forth in the site certificate or amended site certificate. After the site certificate or amended site certificate is issued, the only issue to be decided in an administrative or judicial review of a state agency or local government permit for which compliance with governing law was considered and determined in the site certificate or amended site certificate proceeding shall be whether the permit is consistent with the terms of the site certificate or amended site certificate. Each state or local government agency that issues a permit, license or certificate shall continue to exercise enforcement authority over the permit, license or certificate.

(4) Nothing in ORS chapter 469 shall be construed to preempt the jurisdiction of any state agency or local government over matters that are not included in and governed by the site certificate or amended site certificate. Such matters include but are not limited to employee health and safety, building code compliance, wage and hour or other labor regulations, local government fees and charges or other design or operational issues that do not relate to siting the facility. [1993 c.569 §11 (469.401 and 469.403 enacted in lieu of 469.400); 1995 c.505 §12; 1999 c.385 §2]

# Exhibit 1

## ARTICLE 6. CONDITIONAL USES

### SECTION 6.010. AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.

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 unless exempted by Section 6.015. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, a change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

### SECTION 6.015. REQUIREMENTS UNDER A STATE ENERGY FACILITY SITE CERTIFICATE.

If a holder of a Site Certificate issued by the Oregon Energy Facility Siting Council requests a conditional use permit for an energy facility as outlined under ORS 469.401(3) and pays the requisite fee, the Planning Director shall issue such conditional use permit. The conditional use permit shall incorporate only the standards and conditions in Morrow County's land use and other ordinances as contained in the site certificate. Issuance of the Conditional Use Permit shall be done promptly, not taking more than four weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received.

**SECTION 6.020. GENERAL CRITERIA.** In judging whether or not a conditional use proposal shall be approved or denied, the Commission shall weigh the proposal's appropriateness and desirability, or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met or can be met by observance of conditions.

A. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies and regulations of the County.

**ARTICLE 6. CONDITIONAL USES**

**SECTION 6.010. AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.**

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 unless exempted by Section 6.015. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, a change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use.

**SECTION 6.015. REQUIREMENTS UNDER A STATE ENERGY FACILITY SITE CERTIFICATE.**

If a holder of a Site Certificate issued by the Oregon Energy Facility Siting Council requests a conditional use permit for an energy facility as outlined under ORS 469.401(3) and pays the requisite fee, the Planning Director shall issue such conditional use permit. The conditional use permit shall incorporate only the standards and conditions in Morrow County's land use and other ordinances as contained in the site certificate. Issuance of the Conditional Use Permit shall be done promptly, not taking more than four weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received

**SECTION 6.020. GENERAL CRITERIA.** In judging whether or not a conditional use proposal shall be approved or denied, the Commission shall weigh the proposal's appropriateness and desirability, or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met or can be met by observance of conditions.

A. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies and regulations of the County.

B. If located within the Urban Growth Boundary of a city, that said city has had an opportunity to review and comment on the subject proposal.

C. The proposal will not exceed carrying capacities of natural resources or public facilities.

**SECTION 6.030. GENERAL CONDITIONS.** In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

A. 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, vibration, air pollution, glare and odor.

B. Establishing a special yard or other open space or lot area or dimension.

C. Limiting the height, size or location of a building or other structure.

D. Designating the size, number, location and nature of vehicle access points.

1. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.

2. In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of

service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards.(MC-C-8-98)

E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

1. It is the responsibility of the land owner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8-98)

F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.

G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

J. Designating the size, height, location and materials for a fence.

K. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.

**SECTION 6.040. PERMIT AND IMPROVEMENTS ASSURANCE.** The Commission may require an applicant to furnish the County with a performance bond or such other form of assurance that the Commission deems necessary to guarantee development in accordance with the standards established and the conditions attached in granting a conditional use permit.

**SECTION 6.050. STANDARDS GOVERNING CONDITIONAL USES.** A conditional use shall comply with the standards of the zone in which it is located and with the standards set forth in this subsection.

A. Airports, aircraft landing fields, aircraft charter, rental, service and maintenance facilities not located in an Aircraft Approach Zone: The Planning Commission shall find that the location and site design of the proposed facility will not be hazardous to the safety and general welfare of surrounding properties, nor that the location will unnecessarily restrict existing and future development of surrounding lands as designated by the Comprehensive Plan.

B. Automobile wrecking yard or junk yard: In considering a conditional use application for an automobile wrecking yard or junk yard, the Commission shall require that it be enclosed and screened from public view by a sight-obscuring fence not less than six feet in height. If applicable, the Commission shall be assured that the proposal is in conformance with applicable State regulations.

C. Cemeteries: The Commission shall require evidence and shall find that the terrain and soil types of a proposed location are suitable for interment, and that the nature of the subsoil and drainage will not have a detrimental effect on ground water sources or domestic water supplies in the area of the proposed use.

D. Church, hospital, nursing home, convalescent home, retirement home:

1. Such 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 off-street parking (related structures and uses such as a manse, parochial school, or parish house are considered separate principal uses and additional lot areas shall be required therefore).

b. Location of the site relative to the service area.

c. Probable growth and needs therefore.

d. Site location relative to land uses in the vicinity.

e. Adequacy of access to and from principal streets together with the probable effects on the traffic volumes of abutting and nearby streets.

2. Such uses or related buildings shall be at least 30 feet from a side or rear lot line.

3. Such uses may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet if the total floor area of the building does not exceed the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

E. Clinics, clubs, lodges, fraternal organizations, community centers and grange halls, golf courses, grounds and buildings for games or sports, country clubs, swimming, boating, tennis clubs, and similar activities, governmental structures and land uses, parks, playgrounds. In considering the above, the Planning Commission may authorize the conditional use after assurance that the following are to be provided:

1. Adequate access from principal streets.

2. Adequate off-street parking.

3. Adequate building and site design provisions to minimize noise and glare from the building and site.

F. Dog Pounds and Kennels: The Planning Commission may authorize a dog pound or kennel as a conditional use provided that building and site design provisions are adequate to minimize noise and odor. When necessary to



protect surrounding properties, the Planning Commission may require a sight-obscuring fence or hedge, and may restrict vehicular access and loading facilities, especially those required by trucks transporting large animals.

G. Home Occupations, when permitted as a conditional use and conducted as an accessory use, shall be subject to the following limitations:

1. The home occupation is to be secondary to the main use of the property as a residence and shall be conducted only by the resident of such dwelling within the same dwelling or in an accessory building on the same or adjacent property.

2. No structural alterations shall be allowed to accommodate the home occupation except when otherwise required by law, and then only after the plans for such alteration have been reviewed and approved by the Planning Commission. Such structural alterations shall not detract from the outward appearance of the building as an accessory structure to a residence.

3. One non-illuminated sign not to exceed 200 square inches and bearing only the name and occupation of the resident shall be permitted.

4. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interferences with radio or television reception, or other factors.

5. No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require delivery by a commercial vehicle or a trailer or the parking of customer's vehicles in a manner or frequency as to cause disturbance or inconvenience to nearby residents or so as to necessitate off-street parking.

6. Retail sales shall be limited or accessory to a service.

7. No persons shall be employed except members of the immediate family.

8. The permit allowing a home occupation shall be reviewed every 12 months following the date the permit was issued and may continue the permit if the home occupation continues to comply with the requirements of this section.

H. Landfill, solid waste disposal site: The Planning Commission may authorize a landfill or other solid waste disposal site as a conditional use, subject to the following standards:

1. The proposed site shall not create a fire hazard, litter, insect or rodent nuisance, or air or water pollution in the area.

2. The proposed site shall be located in or as near as possible to the area being served.

3. The proposed site shall be located at least one-fourth mile from any existing dwelling, home, or public road (except the access road).

4. The proposed site shall be provided with a maintained access road (all-weather).

I. Mining, quarrying, or other extraction activity:

1. 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:

a. The most appropriate use of the land.

b. Setback from the property line.

c. The protection of pedestrians and vehicles through the use of fencing and screening.

d. The protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants.

e. The prevention of the collection and the stagnation of water of all stages of the operation.

f. The rehabilitation of the land upon termination of the operation.

2. Surface mining equipment and necessary access roads shall be constructed, maintained, and operated in such a manner as to eliminate, as far as practicable, noise, vibration, or dust which may be injurious or annoying to persons or other uses in the vicinity.

3. The comments and recommendations of all appropriate natural resource agencies of the state and federal government shall be sought.

4. A rock crusher, washer or sorter shall not be located closer than 500 feet from a residential or commercial use.

J. Commercial use or accessory use not wholly enclosed within a building or a retail establishment, office, service commercial establishment, financial institution, or personal or business service establishment on a lot in a residential zone. In any zone, permitting a commercial use or accessory use not wholly enclosed within a building or a retail establishment, office, service commercial establishment, financial institution, or personal or business service establishment on a lot abutting or across the street from a lot in a residential zone may be permitted as a conditional use subject to the following standards:

1. A sight-obscuring fence or evergreen hedge may be required by the Planning Commission when, in its judgment, such a fence or hedge or combination thereof is necessary to preserve the values of nearby properties or to protect the aesthetic character of the neighborhood or vicinity.

2. In addition to the requirements of the applicable zone, the Planning Commission may further regulate the placement and design of signs and lights in order to preserve the values of nearby properties; to protect them from glare, noise, or other distractions; or to protect the aesthetic character of the neighborhood or vicinity.

3. In order to avoid unnecessary traffic congestion and hazards, the Planning Commission may limit access to the property.

K. Commercial amusement establishment. A commercial amusement establishment may be authorized after consideration of the following factors:

1. Adequacy of access from principal streets together with the probable effect of traffic volumes of abutting and nearby streets.

2. Adequacy of off-street parking.

3. Adequacy of building and site design provisions to maintain a reasonable minimum of noise and glare from the building and site.

L. Mobile Home Park. A mobile home park shall be built to state standards in effect at the time of construction, the following provisions, and any additional conditions set forth in the Commission's approval prior to occupancy.

1. Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.

2. The space provided for each mobile home shall be provided with piped potable water and electrical and sewerage connections and shall not be less than 30 feet in width nor less than 40 feet in length.

3. The number of spaces for mobile homes shall not exceed 12 for each acre of the total area in the

mobile home park. Except that the Commission may vary this density as follows:

a. If dedicated open space equals 50% or more of the total area of the park, a maximum 10% increase in units per acre may be granted.

b. If in addition to (a) a maintained playground area with approved equipment, such as goal posts, swings, slides, etc., is provided, the maximum increase in units per acre may be increased an additional 5%.

c. If in addition to (a) and (b) an approved recreation/community building is provided, an additional 10% increase of units/acre may be allowed (maximum total increase possible - 25%).

4. A mobile home shall occupy not more than 40 percent of the contiguous space provided for the exclusive use of the occupants of the mobile homes and exclusive of space provided for the common use of tenants, such as roadways, general use structures, parking spaces, walkways, and areas for recreation and landscaping.

5. No mobile home in the park shall be located closer than 15 feet from another mobile home or from a general use building in the park. No mobile home accessory building or other building or structure on a mobile home space shall be closer than 10 feet from a mobile home accessory building or other building or structure on another mobile home space. No mobile home or other building or structure shall be within 25 feet of a public street property boundary or 10 feet of another property boundary.

6. A mobile home permitted in the park shall meet the following standards as determined by an inspection by the building official.

a. It shall have a state insignia indicating compliance with Oregon State Home Construction Standards in effect at the time of manufacture and

including compliance for reconstruction or equipment installation made after manufacture.

b. Notwithstanding deterioration which may have occurred due to misuse, neglect, accident or other cause, the mobile home shall meet the state standards for mobile home construction evidenced by the insignia.

c. It shall contain not less than 225 square feet of space as determined by measurement of the exterior of the unit exclusive of any trailer hitch device.

d. It shall contain a water closet, lavatory, shower or tub, and a sink in a kitchen or other food preparation space.

7. A mobile home permitted in the park shall be provided with a continuous skirting, and if a single-wide unit, shall be tied down with devices that meet state standards for tie down devices.

8. There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the park.

9. The land which is used for park purposes shall be surrounded, except at entry and exit places, by a sight-obscuring fence or hedge not less than six feet in height. The fence or hedge shall be maintained in a neat appearance.

10. If the park provides spaces for 50 or more mobile home units, each vehicular way in the park shall be named and marked with signs which are similar in appearance to those used to identify public streets. A map of the named vehicular ways shall be provided to the appropriate fire department.

11. If a mobile home space or permanent structure in a park within the Urban Growth Boundary of a city is more than 500 feet from a public fire hydrant, the park shall have water supply mains designed to serve fire hydrants and hydrants shall be provided within

500 feet of such space or structure. Each hydrant within the park shall be located on a vehicular way and shall conform in design and capacity to the public hydrants in the affected city.

12. Open Space. A minimum of at least 2,500 square feet plus 100 square feet per mobile home space shall be provided for a recreational play area group or community activities. (No play area is required if the individual mobile home spaces contain in excess of 4,000 square feet). The Planning Commission may require this area to be protected from streets, parking areas, or the like, by a fence or the equivalent, that conforms to fence regulations, but at least 30 inches in height where allowed by fence ordinances. Unless otherwise approved, no required open space area shall contain less than 2,500 square feet. Recreation areas shall be improved with grass, plantings, surfacing or buildings suitable for recreational use.

No recreation facility created within a mobile home park wholly to satisfy the requirements of this section shall be open to, or offered in itself to, the general public.

13. Parking space requirement. A parking space shall be provided for each mobile home space on the site. In addition, guest parking spaces shall also be provided in every mobile home park within 200 feet of the mobile home spaces and at a ratio of one parking space for each two mobile home spaces. Parking spaces shall have durable and dustless surfaces adequately maintained for all-weather use and shall be properly drained.

14. All mobile home parks over 10 acres in size shall be located so as to have access on a street designated as a collector street.

15. All trailer parks containing a total site area of 20 acres or more shall provide a secondary access to the trailer park. Such secondary access shall enter

the public street system at least 150 feet from the primary access.

16. Lighting shall be installed along the access ways of the trailer park and the recreation area with lights of 100 watts or better not over 100 feet apart. Wire for service to light poles and trailer spaces shall be underground.

17. Roadways within the park shall be improved with an all-weather dustless surface and shall not be less than 30 feet in width if parking is permitted on the margin of the roadway, or less than 20 feet in width if parking is not permitted on the edge of the roadway and an adequate designated area is provided and improved for guest parking and tenant recreational vehicles (such area shall be designed and improved to provide not less than one parking space per each two spaces in the park).

18. No mobile home park shall be created on a site less than one acre.

M. Multi-Family Dwelling Complex. A multi-family dwelling complex shall comply with the following provisions, and any additional conditions set forth in the Commission's approval, and shall be constructed pursuant thereto prior to occupancy.

1. The number of units permitted by the applicable zone per gross square footage of a site may be increased as follows:

a. If dedicated open space which is developed and landscaped equals 50% or more of the total area of the site, a maximum 10% increase in the number of units may be granted.

b. If in addition to (a) a maintained playground area with approved equipment, such as goal posts, swings, slides, etc., is provided, the number of units permitted may be increased 5%.



c. If in addition to (a) and (b) an approved recreational community building is provided, an additional 10% increase of units may be granted. (Maximum total increase possible is 25%).

2. There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the complex.

3. If such a complex or any unit thereof is more than 500 feet from a public fire hydrant, such shall be provided at appropriate locations on a vehicular way and shall conform in design and capacity to the public hydrants in the affected way.

4. A minimum of at least 2,500 square feet plus 100 square feet per dwelling unit shall be provided for a recreational play area, group or community activities. Such area shall be improved with grass, plantings, surfacing, equipment or buildings suitable for recreational use. The Commission may require this area to be protected from streets, parking areas, or the like, by a fence or the equivalent. (No play area is required if more than 70% of the area is preserved as open space and is sufficiently developed and landscaped, or the development is to be occupied solely by the elderly.

5. All such complexes with more than 20 dwelling units shall be located so as to have access on a street designated as a collector unless otherwise approved by the Commission.

6. All such complexes shall provide both an ingress and egress.

7. All roadways and parking areas shall be paved, and roadways shall not be less than 20 feet in width, except as approved by the Commission.

8. A sight-obscuring fence or evergreen hedge may be required by the Commission when, in its judgement, such screening is necessary to preserve the values of

nearby properties, protect the aesthetic character of the neighborhood or vicinity, and to provide security for occupants of the subject complex.

9. All accessory structures associated with such a complex shall be set back 50 feet from the property line of an abutting single-family residential lot or use.

N. Recreation Vehicle Park. A recreation vehicle park shall be built to state standards in effect at the time of construction, with the following provisions and any additional conditions set forth in the Commission's approval prior to occupancy.

1. The space provided for each recreation vehicle shall be not less than 700 square feet exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for vehicles other than recreation vehicles, and landscaped areas.

2. Roadways shall be not less than 30 feet in width if parking is permitted on the margin of the roadway, or less than 20 feet in width if parking is not permitted on the edge of the roadway, shall be paved with asphalt, concrete or similar impervious surface and designed to permit easy access to each recreation vehicle space.

3. Trash receptacles for the disposal of solid waste materials shall be provided in convenient locations for the use of guests of the park and located in such number and be of such capacity that there is no uncovered accumulation of trash at any time.

4. No recreation vehicle shall remain in the park for more than 30 days in any 60-day period.

5. Recreation Vehicles may be permitted to stay in RV Parks 51 weeks out of 52 weeks provided that after the 31<sup>st</sup> day the following conditions are met:

- a. Winterizing and skirting shall be of standard materials and shall not include hay bales, etc.
- b. There shall be no outdoor storage.
- c. Occupancy of each recreation vehicle shall not exceed the number of persons for which the RV was designed and manufactured.
- d. Each RV space shall be a minimum of 1,000 square feet.
- e. A copy of the park rules shall be submitted by the park owner and kept on file in the Planning Department. (MC-C-1-01)

6. The total number of parking spaces in the park, exclusive of parking provided for the exclusive use of the manager or employees of the park, shall be equal to one space per recreation vehicle space. Parking spaces shall be covered with crushed gravel or paved with asphalt, concrete or similar material.

O. Radio, television tower, utility station or substation:

1. In a residential zone, all equipment storage on the site may be required to be within an enclosed building.
2. The use may be required to be fenced and provided with landscaping.
3. The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effects to adjacent property.
4. Transmission towers, hoses, overhead wires, plumbing stations, and similar gear shall be so located, designed and installed as to minimize their conflict with scenic values.

**SECTION 6.060. 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 may initiate a request for a conditional use by filing an application with the Planning Department, using forms prescribed pursuant to Section 9.040. Applications shall be filed with the Planning Department at least 21 days prior to the Planning Commission meeting of submittal thereto.

B. If an application for a conditional use involves property and a use located within the Urban Growth Boundary of an incorporated city, said affected city shall be provided an opportunity to review and comment on such an application prior to submittal to the Planning Commission. The applicant shall be notified of the time and place that such city review is to be conducted, or shall be provided with a copy of said city review and comments at least 24 hours prior to the time of the Commission Hearing on said application.

C. Before the Planning Commission may act on a conditional use application, it shall hold a public hearing thereon, following procedure as established on Article 9.

D. Within five days after a decision has been rendered with reference to a conditional use application, the Planning Director shall provide the applicant with written notices of the decision of the Commission.

**SECTION 6.070. TIME LIMIT ON A PERMIT FOR A CONDITIONAL USE.**

Authorization of a conditional use shall be void after one year or such lesser time as the authorization may specify unless substantial construction has taken place or the proposed use has occurred. However, the Planning Commission may extend authorization for an additional period not to exceed one year on request.

**SECTION 6.080. OCCUPANCY PERMIT.** The Commission may require an Occupancy permit for any conditional use permitted and approved pursuant to the provisions of this Ordinance. The Commission shall consider such a requirement for any use authorized by a conditional use permit for which the conditions have been established by the Commission upon approval of such use. The requirement of an Occupancy Permit shall be for the intent of insuring permit compliance and

said permit shall not be issued except as set forth by the Commission. The authority to issue an Occupancy Permit upon compliance with the requirements and conditions of a conditional use permit may be delegated by the Commission at the time of approval of a specific conditional use permit to the Secretary of the Commission, the Planning Director, and/or the Building Official.

MORROW COUNTY PLANNING DEPT.  
P.O. BOX 40  
IRRIGON, OR 97844



UNITED STATES POSTAGE  
PITNEY BOWES  
\$ 001.560  
02 1P  
0003844472 JAN 26 2010  
MAILED FROM ZIP CODE 97844

Plan Amendment Specialist  
DLCD  
635 Capitol Street NE Suite 150  
Salem, OR 97301-2540