



KLAMATH COUNTY PLANNING DEPARTMENT

Government Center

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JULY 15, 2021

TO: PROPERTY OWNER / STAKEHOLDER

FROM: ERIK NOBEL, PLANNING DIRECTOR

SUBJECT: PROPOSED SOLAR ORDINANCE

The Klamath County Planning Commission has been working the past two years to develop an Ordinance to create siting standards for commercial solar facilities in Klamath County. The reasons for creating this ordinance are:

- Protect resources within the County by:
 - Excluding development for commercial solar facilities on properties consisting predominantly of soil within the Class 1 to 3 range.
 - Excluding development for commercial solar facilities on properties within wildlife habitat areas designated as Crucial Winter Range by the Oregon Department of Fish and Wildlife.
 - Preserving existing water rights.
- Collaborate and coordinate with property owners, stakeholders and agencies, and
- Encourage renewable energy production.

You are receiving this notice because either you are a property owner that has lands that consist predominantly of soil within the Class 1 to 3 range or you have lands within the Crucial Winter Range or you have been identified as a stakeholder. Whatever the case may be, Klamath County wants to hear from you. Attached is a copy of the proposed ordinance. Please look it over and let us know if you have any questions or concerns.

You may submit your comments or questions by email (enobel@klamathcounty.org), letter (Klamath County Planning, 305 Main Street, Klamath Falls, OR 97601) or by giving us a call (541-851-3648). If you call, staff will take some brief notes to share with the Planning Commission. If you would like to speak directly to the Planning Commission, you will have the opportunity to do so during the Public Comment period at the Planning Commission meetings on August 24 or October 26. The meetings are open to the public and held at 6pm in the County Government Center, 305 Main Street, Klamath Falls, Oregon.

This Ordinance will be considered for adoption on October 26, 2021.

Article XX

Commercial Solar

XX.010 - Definition:

Commercial Solar Systems: An assembly of equipment that converts sunlight into electricity and then stores or transmits that electricity. This includes photovoltaic modules, mounting and solar tracking equipment and foundations, electric cabling, inverters, collection systems, and other similar components. A commercial solar system may also include battery storage, on-site substations, access roads, offices, operation or maintenance buildings, staging areas, and all other necessary appurtenances. A "commercial solar system" does not include net-metering systems as defined in ORS 757.300, agricultural-related facilities, rooftop mounted solar, and other similar systems.

XX.020 –Purpose

- A. This chapter describes the requirements for establishing commercial solar systems on lands zoned under the Klamath County Land Development Ordinance, including Exclusive Farm Use, Forestry, Forestry/Range and Non-Resource Zones. The requirements in this chapter supplement the provisions in the underlying base zones.
- B. The goals of this chapter are to:
1. Minimize conflicts with agricultural lands in Klamath County and residential, commercial and industrial areas within the Urban Growth Boundary;
 2. Protect resources identified in the Klamath County Comprehensive Plan;
 3. To exclude the development of Commercial Solar Systems on lands with a predominance of Class I, II, and III soils and zoned Exclusive Farm Use;
 4. Preserve the water rights within Klamath County;
 5. Avoid impacts on wildlife within Klamath County by excluding solar development within areas designated as Crucial Winter Range by the Oregon Department of Fish and Wildlife,
 6. Collaborate and coordinate with agencies and other stakeholders;
 7. Encourage renewable energy production; and
 8. Protect the public health, safety and general welfare of the citizens of Klamath County.

XX.025 - Review Process

- A. The county shall process all applications for a commercial solar system subject to the applicable provisions in Chapters 20 and 30.

- B. Notwithstanding Section 89.025(A), for a commercial solar system application that triggers review under Section 89.045(B), the county must provide notice upon receipt of an application as follows:
1. The notice must include, at a minimum:
 - (a) A description of the proposed commercial solar system;
 - (b) A description of the lots or parcels subject to the permit application;
 - (c) The dates, times and locations where public comments or public testimony on the permit application can be submitted; and
 - (d) The contact information for the governing body of the county and the applicant.
 2. The notice must be delivered to:
 - (a) The Oregon Department of Fish and Wildlife;
 - (b) The Oregon Department of Energy;
 - (c) The State Historic Preservation Office;
 - (d) The Oregon Department of Aviation;
 - (e) The United States Department of Defense; and
 - (f) Federally recognized Indian tribes that may be affected by the application.
- C. When the county receives an application for a commercial solar system that triggers review under Section 89.045(B), the county and the applicant may agree to jointly enter into a cost reimbursement agreement with one of the reviewing state agencies or tribes listed below to assist in the review of the application. A state agency or tribe must provide the county and applicant with a reasonable cost estimate for the service and the county shall have the authority to administer the cost reimbursement agreement.
1. Oregon Department of Fish and Wildlife;
 2. Oregon Historic Preservation Office or any affected federally recognized Indian Tribe; and
 3. Oregon Department of Energy.

XX.030 - Application Requirements:

- A. Application Requirements. An application for a commercial solar system shall include the following unless waived by the director in writing:

1. A description of the proposed commercial solar system, a tentative construction schedule, the legal description of the property on which the system will be located, and identification of the general area for all components of the commercial solar system including a map showing the location of components and including:
 - a. Evidence of an active utility transmission request or process and description of same; and
 - b. A proposed route and permitting for transmission lines connecting the commercial solar system to the grid.

2. Identification of potential conflicts, if any, with:
 - a. Accepted farming practices as defined in ORS 215.203(2)(c) on adjacent lands.
 - b. Accepted forest practices on adjacent lands.
 - c. Other resource operations and practices on adjacent lands including solar systems.

3. A draft water rights management plan if the commercial solar system is proposed for land subject to a water right. The plan shall include:
 - a. Identification of the water right for the subject property including the certificate or permit number, the source of the water right, the point of diversion or the point of appropriation, the place of use, and the priority date.
 - b. A description of applicant's or landowner's proposal for transferring or maintaining the water right during operation of the commercial solar system
 - c. Evidence of acceptance of the water rights management plan by the irrigation district if the subject property is located within an irrigation district.
 - d. Evidence of consultation with the Water Master if the subject property is located outside of an irrigation district.

4. A draft wildlife impact and mitigation plan that includes information pertaining to the commercial solar system's potential impacts and measures to avoid impacts on inventoried wildlife resources identified within the County's Comprehensive Plan. The draft wildlife impact and mitigation plan shall include evidence of consultation with Oregon Department of Fish and Wildlife.

5. A draft fire protection and emergency response plan for construction and operations. The plan shall be developed and

implemented in consultation with the applicable fire district or department and/or land management agency to minimize the risk of fire and respond appropriately to any fire or emergency that occurs on site. In developing the plan, the applicant shall take into account terrain, dry conditions, limited access, and water access.

6. A draft noxious weed control plan developed in consultation with Klamath County.
7. A draft vegetation management plan.
8. For a proposed commercial solar system on land adjacent to Public right of way or residentially zoned land, a draft screening plan to minimize the visibility of the commercial solar system from public view. The draft screening plan may propose screening using landscaping, plants, fencing, or other suitable materials approved by the Klamath County.
9. A draft dismantling and decommissioning plan for all components of the commercial solar system that describes the actions to restore the site to a useful, nonhazardous condition. The plan shall also include:
 - a. A detailed cost estimate for dismantling and decommissioning including the form of financial assurance. The cost estimate for dismantling and decommissioning shall be updated every five years with a current detailed cost estimate that may consider salvage value including a comparison of that estimate with present funds of the bond or other financial mechanism for dismantling, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning.
 - b. A description of restoration of the site that ensures:
 1. Dismantling and removal of all solar equipment and accessory equipment. All concrete pads and foundations shall be removed to a depth of at least 3 feet below the surface. If there is no agricultural or other resource use of the land, this requirement does not apply.

2. Underground collection and communication cables and conduit need not be removed if the cables and conduit are at a depth of a least 3 feet below the surface grade and not deemed to a be a hazard or could interfere with agriculture use or other resource use of the land. If there is no agricultural or other resource use of the land, this requirement does not apply.
3. Access and services roads shall be decommissioned by removing all the gravel, tilling the roads to break up the compacted soil, and the surface grade restored unless a letter from the landowner is submitted to Klamath County indicating responsibility for and maintaining the improvements for farm use or other permitted uses in the applicable zone.
4. Revegetation of the site shall include planting of native plant seed mix, or planting of an agricultural crop, as determined by the underlying landowner. The plan shall state who is responsible for the revegetation.
5. Roads, fences, and other improvements may be left in place if a letter from the landowner is submitted to Klamath County indicating responsibility for and maintaining the improvements for farm use or other permitted uses under the applicable zone.

XX.040 – General Review Standards.

The following general review standards apply to the siting of a commercial solar system:

1. Setbacks:
 - i. No portion of the commercial solar system shall be located within 200 feet of a property zoned Residential or Rural Residential. This setback

does not apply to an aboveground collector line or overhead transmission line necessary to interconnect the commercial solar system to the grid.

- ii. No portion of the commercial solar system shall be located within 200 feet of an existing dwelling on an adjacent property. This setback does not apply to an aboveground collector line or overhead transmission line necessary to interconnect the commercial solar system to the grid.
2. **Ground Leveling:** The applicant shall design the commercial solar system so ground leveling is limited to those areas needed for effective solar collection and preserving the natural ground contouring to the extent possible.
3. **Water Resource:** The applicant shall construct and operate the commercial solar system consistent with a county-approved water rights management plan.
4. **Wildlife Resource:** The applicant shall design the commercial solar system to reduce the likelihood of significant adverse effects on wildlife habitat and mitigate for adverse effects under a county-approved wildlife impact and mitigation plan. Area mapped as crucial winter range shall not be developed with a commercial solar facility.
5. **Soils Resource:** Lands with a predominance of Class I, II, and III soils and zoned Exclusive Farm Use shall not be developed with a commercial solar facility.
6. **Public Safety:** The applicant shall design the commercial solar system to exclude members of the public from hazardous areas within the site. The applicant shall implement a county-approved fire protection and emergency response plan.
7. **Airport Proximity:** A commercial solar system in proximity to an airport shall be designed consistent with applicable state and federal guidance for evaluating solar technologies at airports.
8. **Road Use Agreement:** Where applicable, the Klamath County Road Department shall require the applicant to enter into a road agreement with Klamath County to ensure that construction traffic is mitigated and damage to county roads that is caused by the construction of the commercial solar system is repaired at applicant's expense

9. Dismantling and Decommissioning. The applicant shall comply with a county-approved dismantling and decommissioning plan and provide a financial security acceptable to the County to cover the cost of dismantling and uncompleted construction or decommissioning of the facility, and site rehabilitation. The amount of the security shall be no less 120% of the accepted engineer's estimate.

XX.045 - Specific Review Standards

In addition to the general review standards in Section 89.040, the following specific standards shall apply to a commercial solar system if applicable:

- A. The applicant shall demonstrate that the commercial solar system can be design, operated and constructed consistent with the applicable provisions of OAR 660-033-00130(38).
 1. The county authorizes dual-use Commercial Solar Systems pursuant to OAR 660-033-0120(38)(g)(B). Dual-use Commercial Solar Systems subject to OAR 660-033-0130(38)(g) may not exceed 20 acres and shall have a dual-use development plan providing sufficient assurances that the approved dual-use continues for the life of the Commercial Solar System.
- B. The applicant shall demonstrate to the satisfaction of the county that the commercial solar system meets the standards set forth in ORS 215.446(3).

XX.050 - Annual Report

Annual Report shall be provided to Klamath County Planning Commission and include the following information:

- A. Summary of operational status, statement of ownership, and representative photos of the system.
- B. Success and failure of vegetation control practices (including noxious weeds).
- C. Success and failure of the screening plan, if applicable.
- D. Status of the decommissioning bond, and every five years an update on the decommissioning estimate.
- E. Any required wildlife monitoring reporting.

XX.060 - Amendments:

The Commercial Solar System Approval shall be specific but slight modification from the original approval may be made:

- A. Increase the footprint of the solar system by 10% or less; however, no increase in the amount of solar arrays.