

LAND USE INFORMATION SHEET

**RE: Utility Facilities including Power Plant Facilities
Utility Facility Transmission Lines
Utility Service Lines**

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

UTILITY FACILITY

Utility Facility:

“Any major **Utility Facility** structure owned or operated by a public, private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution or processing of its productions or for the disposal of cooling water, waste or by-products, and including power transmission lines, major trunk pipelines, power substations, dams, water towers, sewage lagoon, sanitary landfills and similar facilities, *but excluding sewer, water, gas, telephone and power local distribution lines and similar minor facilities allowed in any zone.*” (*Emphasis added, see Utility Facility Service Lines definition*)
Umatilla County Development Code (UCDC) Definition Section, 152.003

Utility Facilities are permitted with a Conditional Use Permit (CUP), in the following zones:

Non-Resource Zone (NR);
Rural Residential Zones (RR-2), (RR-4), (RR-10);
Future Urban Zone (FU-10);
Multi Use Forest Zones (MUF-10), (FR-5) & (MR);
Tourist Commercial Zone (TC), Rural Tourist Commercial Zone (RTC);
Agribusiness Zone (AB);
Light Industrial Zone (LI)
(See standards in UCDC Sections, 152.616(CCC) & 152.615)

Utility Facilities are permitted through a Design Site Review/Zoning Permit in the following:

Heavy Industrial Zone (HI);
Rural Heavy Industrial Zone (RHI);
Limited Rural Heavy Industrial Zone (LRHI);
Unincorporated Community Zone (UC)

Utility and Public Power Generating Facilities - permitted with a CUP in the following:

Rural Light Industrial Zone (RLI) & Limited Rural Light Industrial Zone (LRLI)
(See standards in UCDC 152.616(CCC) & 152.615)

Commercial Utility Facilities for the Purpose of Generating Power for Public Use by Sale – permitted with a CUP in the following:

Exclusive Farm Use Zone (EFU), UCDC 152.060(F)
(See standards in UCDC 152.061, 152.617(C) & 152.615)
Grazing Farm Zone (GF), UCDC 152.085(F)
(See standards in UCDC 152.086, 152.616(T) & 152.615)
(Also see ORS 215.283(2)(g) and OAR 660-033-0130 (5) & (17 or 22))
(UCDC has specific criteria for Wind Power Generation, see CUP Section 152.616(HHH))

Note: Utility Facilities are referred to as Utility and Public Power Generating Facilities and Commercial Utility Facilities for the Purpose of Generating Power for Public Use by Sale in several zoning sections of the County Development Code. The UCDC Utility Facility definition covers all three listed facilities. Utility Facilities Necessary for Public Service and Transmission towers over 200 feet in height are specifically listed in the UCDC as uses allowed in the EFU zone with proper permits.

Commercial Wind Power Generation:

An activity carried out for monetary gain using one or more wind turbine generators operated as a single Wind Power Generation Facility that has a combined generating capacity greater than 1 MW. (UCDC Definition Section, 152.003; and standards in UCDC 152.616 (HHH))
(Also see Energy Facility Siting Council (EFSC) rules in OAR Chapter 345)

Wind Power Generation Facility:

An energy facility that consists of one or more wind turbines or other such devices and their related or supporting facilities that produce electric power from wind and are: (a) connected to a common switching station, or (b) constructed, maintained, or operated as a contiguous group of devices.

Utility Facilities Necessary for Public Service:

Utility Facilities necessary for Public Service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet¹ in height.

EFU – Land Use Decision, UCDC 152.059(C)

(See standards in UCDC 152.617 (II) (7))

(Also see ORS 215.283(1)(d) & ORS 215.275 and OAR 660-033-0130(16))

TRANSMISSION AND SERVICE LINES**Utility Facility Service Lines:**

Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following: a public right of way, land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or the property to be served by the utility. (*See reference to minor facilities in the UCDC definition of Utility Facility.*)

(UCDC Definition Section, 152.003)

(Also see ORS 215.283(1)(x) & OAR 660-033-0130(32))

Utility Facilities Service Lines are permitted outright in the following:

EFU Zone, Outright, UCDC 152.056(I)

All Zones, Outright

(See Utility Facility Definition, UCDC 152.003)

Transmission Towers:

Transmission Towers Over 200 Feet in Height are permitted in the following Zone:

EFU – Conditional Use, UCDC 152.060(W)

(See standards in UCDC 152.061, 152.617(T) & 152.615)

(Also see ORS 215.283(2)(m) & OAR 660-033-0130(5))

Construction of new Utility Facilities, including Transmission Lines and Towers, Necessary for Public Service, excepting as provided in UCDC Sections 152.058 ~~(D)~~ 152.059 (C), ~~(H)~~ (I) and ~~(R)~~

GF – Conditional Use, UCDC 152.085(R)

(See standards in UCDC 152.616(T) & 152.615)

Note: Reconstruction or modification of a public road can include the placement or replacement of utility facilities, either overhead or underground. Approval for these utilities can be included as part of the approval for the reconstruction of the public road and does not require a separate land use approval.

(See ORS 215.283 (1)(L) & UCDC, Land Use Decision, 152.059(H))

¹ Towers under 200 feet in height are processed as a Land Use Decision with a public notice. (Cell towers are Land Use Decisions, requiring a public hearing.)

OREGON LAWS AND RULES

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

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

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

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

- (A) A public right of way;
- (B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
- (C) The property to be served by the utility.”

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

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

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

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

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

- (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.”

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

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

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

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

(a) (f)

(3) (6)

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

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

- (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.”

(16)(a) “A utility facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands....”

(17) “A power generation facility shall not preclude more than 12 acres [high value soil] from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR chapter 660, division 004.”

(22) “A power generation facility shall not preclude more than 20 acres [non-high value soils] from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR chapter 660, division 004.”

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

- (A) A public right of way;
- (B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
- (C) The property to be served by the utility.”

PERMITTING

- **County Permitting Process for Conditional Use Permits, Land Use Decisions and Zoning Permits**
Conditional Use Permits and Land Use Decisions are processed administratively, requiring findings and notice with an opportunity for a hearing. (Major facilities are directed to a Public Hearing.) County Design Site Review/Zoning Permits are issued through a ministerial action.
- **Permitting Wind Facilities within Umatilla Wind Energy Generation Area**
Site Certificate through Oregon Energy Facility Siting Council, OAR Chapter 345
- **Permitting Wind Facilities > 105 MW**
Site Certificate through Oregon Energy Facility Siting Council, OAR Chapter 345
- **Permitting Transmission Lines of 230kV or more and ten miles or more**
Site Certificate through Oregon Energy Facility Siting Council, OAR Chapter 345

EFU RESOURCE ZONE	UCDC	PERMIT	ORS/OAR
Utility Facility (UCDC 152.003)	152.060 (F) & 152.061	Conditional Use, 152.617 (C) & 152.615	ORS 215.283 (2) (g) & OAR 660-33-130 (5), & (17 or 22)
Wind Power Generation Facility (UCDC 152.003)	152.060 (F) & 152.061	Conditional Use, 152.616 (HHH)	N/A, unless located within a State designated Energy Generation Area per OAR 345- 001, 0200, 0210 & 0220
Wind Power Generation Facility >105 MW (UCDC 152.003)	152.060 (F)	Site Certificate through EFSC	OAR Chapter 345, Divisions 001, 015, 020, 021, 022, 023, 024 & 026
Transmission Lines \geq 230 kV <u>and</u> > 10 miles in length		Site Certificate through EFSC	OAR Chapter 345, Divisions 001, 015, 020, 021, 022, 023, 024 & 026
Utility Facility Necessary For Public Service, including Transmission Lines, Cell & Transmission Towers \leq 200 feet in Height (excludes *Temporary Met Towers)	152.059 (C)	Land Use Decision, 152.617 (II) (7)	ORS 215.283 (1) (d), ORS 215. 275 & OAR 660-33-130 (16)
All Towers > 200 feet in Height	152.060 (W) & 152.061	Conditional Use, 152.617 (T) & 152.615	ORS 215.283 (2) (m) & OAR 660-33-130 (5)
* Temporary Met Towers < 200 feet in Height		Zoning Permit w/time limit for dismantling	N/A
Utility Facility Service Lines (See definition, UCDC 152.003)	152.056 (I)	Outright Use	ORS 215.283 (1) (x) & OAR 660-33-130 (32)

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