

Chapter 760

SOLAR POWER GENERATION FACILITY

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760.01 Purpose. The purpose of this Chapter is to promote the safe, effective and efficient installation of *solar power generation facilities* within Baker County for the production and consumption of electricity.

760.02 Applicability. This ordinance applies to *solar power generation facilities* installed and/or constructed after the effective date of the ordinance. *Solar power generation facilities* constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance. Any upgrades, modifications, or changes that materially alter the size or placement of an existing *solar power generation facilities* shall comply with the provisions of this ordinance. A renewable energy facility that meets the definition of ORS 215.446(1) shall meet the criteria listed in ORS 215.446 and all associated standards.

A. As used in this chapter:

“High-value farmland” means:

- a. High-value farmland as described in ORS 215.710 that is land in an exclusive farm use zone or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (2), (4) and (6) are December 6, 2007.
 - b. Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June 28, 2007, is:
 - i. Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;
 - ii. Within the boundaries of a district, as defined in ORS 540.505; or
 - iii. Within the boundaries of a diking district formed under ORS chapter 551.
 - c. Land that contains not less than five acres planted in wine grapes.
1. Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent, and that is located within the portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208 that is within the State of Oregon. Photovoltaic solar power generation facility includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components.

Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this Section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operation business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

760.03 Uses. There are four categories of *solar power generation facilities* and accessory uses permitted, as described below:

- A. **Accessory Uses.** The installation and use of a solar power generation facility is an outright permitted use in any zone when located:
 1. On a residential structure in a zone in which residential structures are an allowed use unless subsection (c) of this Section applies; or
 2. On a commercial structure in any zone in which commercial structures are an allowed use unless subsection (c) of this Section applies.
 3. If the residential or commercial structure is designated as any of the following, the provisions of 760.02(A) do not apply:
 - a. A federally or locally designated historic building or landmark, or is located in a federally or locally designated historic district.
 - b. A conservation landmark designated by the County because of the historic, cultural, archaeological, architectural or similar merit of the landmark.
 - c. Located in an area designated as a significant scenic resource *unless* the material used must be designated as anti-reflective or eleven percent or less reflective.
- B. ***Small-Scale Solar Power Generation Facilities.*** A *solar power generation facility* which produces power to be used for non-commercial purposes and is not located within the Exclusive Farm Use or Timber Grazing zone. *Small-scale solar power generation facilities* may generate up to 150% of the expected annual energy need for the primary use.
- C. ***Commercial Solar Power Generation Facilities.*** A *solar power generation facility* which produces power to be used to power commercial developments, uses, structures or businesses located on the same parcel or tract as the *solar power generation facility* and is not located within the Exclusive Farm Use or Timber Grazing zone. Net-metering is permitted with *commercial solar power generation facilities* if it does not exceed 150% of the average expected annual energy production.

D. *Utility-Scale Solar Power Generation Facilities.* A solar power generation facility which produces power to be sold and used for public consumption.

E. Types of Procedures

1. Permits for accessory uses described in 760.02(A) will follow the Type I procedure provisions of Section 115.05 as long as the installation of a solar power generation facility can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed, and the solar power generation facility would be mounted so that the plane of the system is parallel to the slope of the roof.
 - a. No Planning Department fees are to be charged for processing the permit, regardless of whether a Type I procedure can be used. Building Department fees may still apply.
 - b. Extensive surveys, including but not limited to, vegetation surveys, contour maps and elevation drawings, may not be required.
2. A *Small-Scale or Commercial Solar Power Generation Facility* measuring less than 3 acres, accessory to and providing power to a primary use on property within the same ownership, and with net-metering not exceeding 150% of the average expected annual energy production, may be permitted when authorized in accordance with the Type I procedure provisions of Section 115.05. A *Small-Scale or Commercial Solar Power Generation Facility* may be located in any zone subject to the following siting requirements and standards:
 - a. On or accessory to a residential structure which has been permitted or has been identified as a pre-existing, non-conforming structure; or
 - b. On or accessory to a commercial structure which has been permitted or has been identified as a pre-existing, non-conforming structure; and
 - c. Sited in rear- or side-yards and measuring no more than 15 feet in height; and
 - d. Sited in a location which meets all applicable setback requirements set forth in *Chapter 340 – Development Standards (Setback Requirements) for All Zones*.
 - e. Where feasible, electrical cables and transmission lines shall be placed underground.
3. A *Small-Scale or Commercial Solar Power Generation Facility* measuring more than 3 acres, and with net-metering not exceeding 150% of the average expected annual energy production, may be permitted when authorized in accordance with the Type III procedure provisions of Section 115.07.
4. A *Utility-Scale Solar Power Generation Facility* may be permitted when authorized through a Conditional Use Permit, and in accordance with the Type III procedure provisions of Section 115.07. A *Utility-Scale Solar Power Generation Facility* may be located in any zone subject to the following siting requirements and standards:
 - a. No portion of a *Utility-Scale Solar Power Generation Facility* shall be within 1,320 feet of:
 - i. Properties designated on the Comprehensive Land Use Zoning Maps as residential (those zoned Rural Residential (RR-5) or Recreation Residential (RR-2) only), or

- ii. The city limits of an incorporated city, unless a resolution specifically supporting placement of a *solar power generation facility* within 1,320 feet of the city limits has been passed by the city council of that city.
 - b. No portion of a *Utility-Scale Solar Power Generation Facility* shall be located within 1,320 feet of an existing dwelling unless an Affidavit of Consent has been signed by all property owners with an existing dwelling within 1,320 feet of the facility. This Affidavit of Consent shall be recorded by deed in the Baker County Clerk's Office. Utility-Scale Solar Power Generation Facilities seeking to locate on properties designated as Commercial Industrial (CI) on the Baker County Zoning Maps are exempt from the requirements of this section.
 - c. All *Utility-Scale Solar Power Generation Facilities* shall meet setback requirements set forth in *Chapter 340 – Development Standards (Setback Requirements) for All Zones*.
 - d. No portion of a *Utility-Scale Solar Power Generation Facility* shall be located within 1 mile of an existing airport or airstrip registered with the Federal Aviation Administration at the time of application or, if located within 1 mile, must demonstrate that the proposed Utility-Scale Solar Power Generation Facility either (i) does not exceed the notice criteria of the Federal Aviation Administration and Oregon Department of Aviation or (ii) has received a Determination of No Hazard to Aviation from both the Federal Aviation Administration and the Oregon Department of Aviation.
 - e. Where feasible, electrical cables and transmission lines shall be placed underground.
- F. Permit Expiration Dates and Extensions. *Solar Power Generation Facilities* shall be subject to permit expiration periods and extension requirements set forth in Chapter 220 of this Ordinance.

760.04 Application Requirements

- A. An application for a Type I *solar power generation facility* shall include all application requirements set forth in Section 115.05.
- B. In addition to the application requirements set forth in Section 115.07, the following information shall be provided by the applicant as part of a Type III *solar power generation facility*:
 - 1. Narrative. A written narrative for the proposed *solar power generation facility*, including but not limited to a description of:
 - a. Demonstration of compliance with all criteria that apply to the proposal, including those listed in Chapter 210 Conditional Uses;
 - b. The proposed facility and generation capacity, including expected average annual net-metering output, and anticipated timeline for permitting, construction and energy production, operation, and utilization;
 - c. Site preparation, surveying and staking, including:

- i. A description of how the proposed solar power generation facility equipment, buildings, panels, power lines, related facilities and roads shall be designed and constructed in order to:
 - A. Limit ground leveling for the proposed facility to those areas needed for effective solar energy collection and so that the natural ground contour is preserved to the greatest extent practical; and
 - B. Remove and stockpile top soil, upon the commencement of site work, for later re-spreading over disturbed areas prior to re-vegetation; and
 - C. Ensure that minimal vegetation is removed from the site; that vegetation beyond the site perimeter is not disturbed; and that a 500-foot buffer zone of undisturbed soil and vegetation on either side of stream courses; and
 - D. Ensure that roads and transmission lines crossing riparian areas are designed and constructed at minimum widths in consideration of maximum erosion control.
- d. A description of the materials and design of the proposed facility, including confirmation that the following design aspects have been met:
 - i. Based on the existing conditions and vegetation at the proposed site, the *solar power generation facility* has been constructed or surfaced with materials to reduce visibility of the facility through the use of non-reflective materials that minimize glare and blend the structure into the surrounding environment.
 - ii. The proposed *solar power generation facility* has been designed to prevent the misdirection of solar radiation onto nearby property, public roads or other areas accessible to the public.
 - iii. *Solar panels* have been designed and constructed to discourage bird nesting and wildlife attraction.
- e. Confirmation that all chemicals or solvents used to clean solar panels or heliostats are low in volatile organic compounds and that the operator will use recyclable or biodegradable products to the extent possible.
- f. A description of existing and proposed roads associated with the facility. Existing roads shall be utilized as much as practical. Private access roads established and controlled by the owner/operator of the *solar power generation facility* shall be gated to protect the facility and property owners from illegal or unwarranted trespass or illegal activities.
- g. Vegetation removal and re-vegetation plans, including:
 - i. Re-vegetation and Erosion Control Plan. The plan shall be developed in consultation with a qualified professional. It shall include the seeding of all road cuts or related bare road areas as a result of all construction, demolition and rehabilitation with an appropriate mix of native vegetation or vegetation suited to the area. Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, or other significant natural resources; and

- ii. Weed Control Plan. The plan shall be developed in conjunction with the Baker County Weed Department. It shall include the prevention and control of all Baker County identified noxious weeds directly resulting from the *solar power generation facility* during preparation, construction, operation and demolition/rehabilitation. The plan shall also address monitoring before, during and after construction. Reimbursement to agencies for their review time shall be the responsibility of the developer.
- h. The number and type of workers to be employed at the facility during installation, construction and operation, including detailed information pertaining to expected work force, contracted or otherwise.
- i. Noise, light, dust, vibration, glare and other impacts on surrounding properties during installation, construction and operation.
- j. Water usage, including amounts and sources during installation, construction and operation.
- k. Site security and fencing proposed during installation, construction and operation, including:
 - i. A description of measures which will be taken to protect the public and restrict unauthorized persons from entering the project site; and
 - ii. An analysis of impacts of the *solar power generation facility* on criminal activity (vandalism, theft, trespass, etc.) and proposed actions, if any, to avoid, minimize or mitigate negative impacts.
- l. Waste and hazardous materials management, including:
 - i. Documentation that activities have been designed and will be conducted to comply with the air and water quality standards of DEQ; and
 - ii. A spill prevention control plan describing spill prevention and containment during installation, construction and operation of the proposed facility, including verification that a local emergency service provider has equipment, training and personnel to respond to spills; and
 - iii. A waste disposal plan describing the location and manner of waste disposal, in conformance with DEQ standards.
- m. Identification of potential conflicts, if any, with:
 - i. Identified wetlands and floodplains; and
 - ii. Other resource operations and practices on adjacent lands including *solar power generation facilities* on such adjacent lands; and
 - iii. Accepted farm or forest practices on surrounding resource land, including the nature and the extent of the impact of the proposed facility on the cost of such practices; and
 - iv. Cultural, historic or prehistoric artifacts or sites, if inventoried in the Baker County Comprehensive Plan, and their preservation.

2. Site Plan. Site plans conforming to the requirements of Section 310.04(A), and also including:
 - a. *Solar power generation facility* configuration and layout, including number and size of all:
 - i. solar panels
 - ii. transmission lines and easements
 - iii. substations
 - iv. distribution, communication and ancillary facilities, including administrative and/or maintenance facilities; and
 - v. string converters
 - vi. fences
 - b. Identification of the percentages of high value soils, as defined in Chapter 150, arable soils and nonarable soils on the project site, and on the subject tract. The development site plan shall be overlaid on the specific soil types identified in this subsection.
 - c. Setbacks of all existing and proposed structures from property lines.
 - d. An accurate vicinity map showing adjacent properties, land uses, zoning, existing buildings and roadways within one half mile of the proposed facility.
 - e. An accurate vicinity map of all existing, approved or abandoned *solar power generation facilities* within one half mile of the proposed facility under consideration.
 - f. Areas of existing and proposed vegetation to be added, retained, replaced or removed.
 - g. Temporary construction workspace, yards, staging and storage areas.
 - h. The location of any public or private roads and easements associated with the *solar power generation facility*.
 - i. The location of any bodies of water, waterways and wetlands on the site.
 - j. The location and distance to public or private airports or airstrips, within one mile of the proposed project.
3. Wildlife Plan. The Baker County Planning Department shall notify ODFW of the opportunity to consult with applicants on the development of *Utility-Scale Solar Power Generation Facilities*. Subsequent to this consultation, the following shall be required:
 - a. If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to

wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife agency will cooperatively develop an agreement for the project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

- b. If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the Comprehensive Plan, and the Plan does not address conflicts between energy facility development and the resource, the applicant and the County, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is not a program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the County is responsible for determining appropriate mitigation measures.
 - c. Evidence of consultation with the Oregon Department of Fish & Wildlife (ODFW) regarding possible wildlife impacts from the installation, construction and operation of the proposed facility. A wildlife plan shall be administered by a wildlife professional of the applicant's choosing, in consultation with ODFW. The County has the option to have the wildlife plan peer reviewed by a wildlife professional of the county's choice, at the applicant's expense. For commercial projects being sited by the Energy Facility Siting Council (EFSC), compliance with EFSC's avian and wildlife monitoring requirements will be deemed to meet this requirement. The wildlife plan must include:
 - i. Avian
 - ii. Bat
 - iii. Big game species
 - iv. All other wildlife species of reasonable concern
 - v. Impacts to wildlife habitat
 - vi. Habitat mitigation proposed
 - vii. Monitoring plan and proposed mitigation, if necessary
 - d. Demonstration of compliance with the provisions of Chapter 620 - *Big Game Habitat Overlay Zone (BGHO)* and Chapter 640 - *Sensitive Bird Habitat Overlay Zone (SBHCOZ)* of this Ordinance, or OAR 660-023-0115 Greater Sage-Grouse, will also be required if applicable.
4. Fire Protection & Emergency Response Plan. Activities shall be designed and conducted to provide fire protection measures acceptable to the County, any adjacent land management agency and any fire district in which the project is located. A fire prevention and emergency response plan shall be provided for all phases of the life of the facility. The plan shall identify the fire district in which the facility is located and verify that this district has the appropriate equipment, training and personnel to respond to fires. If the local fire department or district does not have adequate capability for emergency response at this facility, the applicant shall provide a plan for providing such in case of an emergency. The plan shall also address the major concerns associated with the site, including but not necessarily limited to:
- a. terrain
 - b. dry conditions

- c. limited access
 - d. available water
 - e. fire siting standards for the applicable zone
 - f. prevention or control of fires
 - g. blow-outs
 - h. adverse weather conditions
5. Socioeconomic Impact Assessment. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision makers need information about the socioeconomic impacts which are likely to occur upon development. A socioeconomic impact assessment of the facility shall be submitted, evaluating the effect of the proposed project upon such factors as, but not limited to, the social, economic, public services, cultural, tourism, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative and shall be compared to outright permitted uses of the zone in which the proposed facility would be located.
 6. Interconnect. Evidence of an active utility transmission interconnect request and/or process and description of same; and a route and permitting plan for transmission lines connecting the project to the grid.
 7. Preliminary Construction, Dismantling and Reclamation Plan. A preliminary construction, dismantling and reclamation plan in accordance with Section 770.02.
 8. Financial Assurances. An explanation of how financial assurances will be provided for dismantling and reclamation, in accordance with Section 770.04.
 9. Permits. Other Federal, State and local agency permits shall be included with the application for the *solar power generation facility*, as required, including:
 - a. Identification of required permits.
 - b. A statement regarding the status of all required permits at time of application.

760.05 Review Standards

- A. The following requirements and restrictions shall apply to all new or replacement *Type I Solar Power Generation Facilities*:
 1. Demonstration of compliance with all criteria set forth in this Ordinance for the applicable underlying zone.
 2. Demonstration of compliance with all standards included in Section 760.03.
 3. Demonstration of compliance with all criteria included in Section 760.04.
 4. Demonstration of compliance with all setback requirements included in Chapter 340.
- B. The following requirements and restrictions shall apply to all new or replacement *Type III Solar Power Generation Facilities*:

1. Demonstration of compliance with all criteria set forth in this Ordinance for the applicable underlying zone.
 2. Demonstration of compliance with all standards included in Section 760.03.
 3. Demonstration of compliance with all criteria included in Section 760.04.
 4. Demonstration of compliance with all criteria included in Chapter 210.
 5. Demonstration of compliance with all setback requirements included in Chapter 340.
 6. Acknowledgement of Farm and Forest Practices. If the *solar power generation facility* is located in or adjacent to the EFU or TG Zones, an *Acknowledgement of Farm and Forest Practices* shall be recorded with the County. Generally accepted farming and forest practices shall be consistent with the definitions under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm or forest use for generally accepted farming and forest practices.
 7. Demonstration that the Preliminary Construction, Dismantling and Reclamation Plan meets the standards set forth in Section 770.02. A Final Dismantling and Reclamation Plan that meets the standards set forth in Section 770.03 will be required prior to beginning construction, as a condition of approval.
 8. Financial assurances, in accordance with Section 770.04, will be provided prior to beginning construction as a condition of approval.
- C. In addition to all siting requirements listed in Sections 760.03, 760.04, and 760.05(B), all *solar power generation facilities* sited in the Exclusive Farm Use (EFU) Zone:
1. Must demonstrate necessity.
 - a. A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.
 - b. To demonstrate that a utility facility is necessary, an applicant for approval 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:
 - i. Technical and engineering feasibility;
 - ii. The proposed 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;
 - iii. Lack of available urban and non-resource lands;
 - iv. Availability of existing rights of way;
 - v. Public health and safety; and
 - vi. Other requirements of state or federal agencies.
 2. A *solar power generation facility* 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 surrounding lands devoted to farm or forest use.
3. On high-value farmland, a *solar power generation facility* shall not use, occupy, or cover more than 12 acres. The governing body or its designate must find that:
- a. The proposed *photovoltaic power generation facility* will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and/or placing solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;
 - b. The presence of a *photovoltaic solar power generation facility* will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
 - c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil de-compaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;
 - d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;
 - e. Except for electrical cable collection systems connecting the solar power generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);
 - f. The project is not located on high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
 - i. Non-high-value farmland soils are not available on the subject tract;
 - ii. Siting the project on non-high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - iii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non-high-value farmland soils; and

- g. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
 - i. If fewer than 48 acres of solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
 - ii. When at least 48 acres of solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
- 4. For arable lands, a *photovoltaic power generation facility* shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied:
 - a. Except for electrical cable collection systems connecting the solar power generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);
 - b. The proposed *solar power generation facility* is not located on high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
 - i. Non-arable soils are not available on the subject tract;
 - ii. Siting the project on non-arable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - iii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non-arable soils;
 - c. No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to ORS 197.732 and OAR 660-004;
 - d. A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
 - i. If fewer than 80 acres of *solar power generation facilities* have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.
 - ii. When at least 80 acres of *solar power generation facilities* have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the *solar power generation facility* will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential *solar power generation facilities* will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or

diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

- e. The requirements of Section 760.05(C)(3)(a-d) are satisfied.
5. For non-arable lands, a *photovoltaic solar power generation facility* shall not use, occupy or cover more than 320 acres. The governing body or its designate must find that:
- a. Except for electrical cable collection systems connecting the solar power generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);
 - b. The proposed *photovoltaic solar power generation facility* is not located on high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
 - i. Siting the *photovoltaic solar power generation facility* on non-arable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - ii. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of non-arable soils;
 - c. No more than 12 acres of the *photovoltaic solar power generation facility* will be sited on high-value farmland soils described in this chapter;
 - d. No more than 20 acres of the *photovoltaic solar power generation facility* will be sited on arable soils;
 - e. The requirements of Section 760.05(C)(3)(d) are satisfied;
6. An exception to the acreage and soil thresholds in subsections 3-5 of this Section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.
7. In the EFU Zone, any required permanent maintenance/operations buildings shall be located off site in an appropriately zoned area to the extent practicable, except that such a building may be constructed on site if:
- a. The building is designed and constructed in a way that is generally consistent with the character of similar buildings used in conjunction with farm use; and
 - b. The building will be removed or converted to farm use upon dismantling of the *solar power generation facility*.

760.06 Adjustments

- A. The *solar power generation facility* siting requirements shall be facility specific, but can be adjusted as long as the facility does not exceed the boundaries of the Baker County conditional use permit where the original facility was constructed. Adjustments to the original conditional use permit must conform to the standards in Chapter 115.03(B).

1. An adjustment to the original conditional use permit shall be required if proposed facility changes would:
 - a. Require an expansion of the established facility boundaries;
 - b. Increase the footprint of the *solar power generation facility* by more than 20 percent;
 - c. Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity;
 - d. Increase the number of panels;
 - e. Change any roads or access points established at or inside the facility boundaries;
2. In order to facilitate appropriate timely response by emergency service providers, notifications by the facility owner/operator to the Baker County Planning Department of changes not requiring an adjustment (such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact) are required to be reported immediately. An adjustment to a Site Certificate issued by EFSC will be governed by the rules for adjustment established by EFSC.

760.07 Abandonment

- A. The Baker County Planning Director, in consultation with the Oregon Department of Energy and Industry experts, may deem a property abandoned if no power has been generated for a period of two (2) years, or according to industry standards. A notice of abandonment of a *solar power generation facility* shall be sent in the form of a certified, return-receipt letter from the County, or hand delivered by the Baker County Sheriff's office. Such a letter shall identify the property upon which the abandoned *solar power generation facility* is located and shall include an explanation of the action necessary to gain compliance with the Ordinance. This letter shall be delivered to the last known owner of record of the subject parcel according to the tax account information of the Baker County Assessor, as well as to the original applicant for the *solar power generation facility*.
- B. Upon determination of abandonment:
 1. The facility owner shall have one year to:
 - a. Reuse the facility or transfer the facility to another owner who will reuse it within 1 year of the determination of abandonment; or
 - b. Remove the facility.
 2. If the facility is not reused or restored within one year of the determination of abandonment, County authorization for the use shall expire. Once authorization for the use has expired, the facility shall be removed from the property as per the requirements of Section 750.08 within 1 year. If the facility is not removed within 1 year, the County may remove the facility at the expense of the property owner. The county retains the right to file a lien for the value of the removal of the facility, plus interest, at the property owner's expense. The determination of abandonment is not a land use decision and cannot be appealed to LUBA. However, the Planning Director's decision can

be appealed by the project owner or landowner, as described in Section 115.05(G) and Section 211.06(G) of this Ordinance.

760.08 Signs

- A. All *solar power generation facility* sites shall have a sign area of not less than three, nor more than six, square feet in surface area prominently erected, which displays the site's name or identification number; the name, address and phone number of the operator; and the name and phone number of the operator's representative to be contacted in the event of an emergency.
- B. Outdoor displays, signs, or billboards within the *solar power generation facility* project boundary shall not be erected, except:
 - 1. Signs required for public or employee safety or otherwise required by law; (e.g., OSHA or compliance with the Manual of Uniform Traffic Control Devices (MUTCD) administered through the County Road Department); and
 - 2. All signs must receive approval based on the standards included in Chapter 730 in the Baker County Zoning Ordinance.