

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of Text Amendments            )  
to the Curry County Zoning Ordinance        )  
Related to the Public Facilities             )  
Zone and Transportation-related            )  
Uses in Non-resource Zones                 )  
ORDINANCE NO. 11-03

The Curry County Board of Commissioners ordains as follows:

Section 1: Findings

1. These amendments to the Curry County Zoning Ordinance were proposed to promote transportation projects in the County and to eliminate automatic zoning reversion language, which has been declared unlawful by the Oregon Court of Appeals.
2. Notice of the proposed amendments was forwarded to the Department of Land Conservation and Development ("DLCD") on June 9, 2011.
3. The Curry County Planning Commission held a public hearing to receive comments from the public regarding the proposed amendments. Both written and oral testimony was received, including testimony from representatives of Oregon Department of Transportation ("ODOT"), the County Roadmaster Dan Crumley and County Tax Assessor Jim Kolen.
4. The Planning Division staff and County Counsel revised the proposal in response to the comments. Both ODOT and the County Roadmaster expressed support for the proposed amendments.
5. On October 20, 2011, the Planning Commission made a recommendation to the Board of Curry County Commissioners to adopt the amendments attached and incorporated herein as Attachment "A."
6. Following published notice on November 23, 2011, as required by law, the Board of Curry County Commissioners held a public hearing on December 6, 2011, to consider this ordinance.

Section 2: Amendments

The Curry County Zoning Ordinance is amended as shown in Attachment "A." The Planning Division staff is authorized to insert copies of the approved text into the Curry County Zoning Ordinance following adoption of this ordinance by the Board.

Section 3: Severance Clause

If any section, subsection, sentence, clauses or phrases of this ordinance is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4: Effective Date:

Consistent with ORS Chapters 197 and 215, this ordinance shall take effect upon its passage.

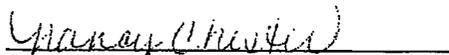
Dated this 6<sup>th</sup> day of December 2011.

**CURRY COUNTY BOARD OF COMMISSIONERS**

  
George Rhodes, Chair

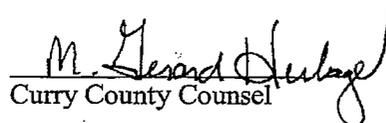
  
David G. Itzen, Vice Chair

  
Bill Waddle, Commissioner

  
Recording Secretary

Approved as to Form:

M. Gerard Herbage

  
Curry County Counsel

First Reading: 12-06-2011  
Second Reading: N/A  
Effective Date: 12-06-2011

## CURRY COUNTY ZONING ORDINANCE

### PUBLIC FACILITIES ZONE

Proposed text amendments to the *Curry County Zoning Ordinance* to address the issue of zoning reversion upon private ownership and suggestions from the Oregon Department of Transportation (ODOT).

Added text is in **bold underlined**; Deleted text is ~~struck through~~.

---

#### **Section 3.200. Public Facilities Zone (PF).**

Purpose of Classification. The PF zone is applied to publicly and privately owned areas for the development or maintenance of needed public facilities and services. ~~All public highway, road and street right-of-ways are included in this zoning designation.~~

#### **Section 3.201. Uses Permitted Outright.**

The following uses and their accessory uses are permitted outright:

1. Public schools, ~~including~~ **and** nursery or day care centers when located within an urban growth boundary.
2. Public parks or recreational facilities.
3. Public utilities and/or service facilities.
4. Government structures, offices or uses.
5. Public parking lots or parking buildings when accessory to a permitted use.
6. Community centers.
7. Cemeteries.
8. Expansion of airport hangars and related buildings.
9. Disposal of dredge spoils on sites described in permits issued by Federal and/or State governmental agencies.
10. ~~Storage of equipment and construction materials necessary to maintain public roads and highways for a period not to exceed six months in a calendar year, but not including the operation of portable construction material processing plants. The time limitation for storage of materials does not apply to the stock piling of sand, or rock.~~

10. Repair or modification of an existing use listed above which is located in a rural area outside of an urban growth boundary.

**11. Transportation Improvements.**

**12. Public transportation improvements including:**

- ~~a) Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.~~
- ~~b) Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within existing right-of-way.~~
- ~~c) Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.~~
- ~~d) Landscaping as part of a transportation facility.~~
- ~~e) Emergency measures necessary for the safety and protection of property.~~
- ~~f) Acquisition of right-of-way for public roads, highways, and other transportation designated in the Transportation System Plan except for those that are located in exclusive farm use or forest zones.~~
- ~~g) Construction of a public street or road as part of an approved subdivision or land partition approved as being consistent with the applicable land division ordinance or code.~~

**Section 3.202. Conditional Uses Subject to Administrative Approval by the Director.**

The following uses may be allowed provided a land use application is submitted pursuant to Section 2.060 of the ~~Curry County Zoning Ordinance~~ and the Planning Director approves the proposed use based upon relevant standards for review in this ordinance. Numbers in parenthesis following the uses indicate the standards described in Section 7.040 that must be met to approve the use.

1. Single family dwelling or manufactured home, which is subordinate and accessory to a permitted use.
2. Trailer, camping or recreational vehicle temporarily used as a residence during construction of a permitted use or to temporarily provide watchman security for material that cannot be reasonably stored in an established commercial storage facility.
3. One manufactured home in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. (17)

4. Television, microwave, and radio communication facilities and transmission antenna towers. (5)
5. A temporary or modular office as allowed by the Uniform Building Code.
6. A nongovernmental business or professional office conducted in a public building or on land leased from the public.
7. The construction or establishment of any new public or private structure or facility, such as those listed as outright-uses, which would not create an urban use in a rural area.

NOTE: The addition of structures or buildings that are located within the general vicinity of the existing use or are an integral part of the existing use are deemed not to be an urban use (i.e. additions to rural schools, park-related buildings within existing parks, etc.).

8. The construction or establishment of any new public or private structure or facility related to or associated with any of the outright uses or structures described in Section 3.201 that would create an urban use in a rural area and does not adversely affect any adjacent resource lands.

**9. Uses accessory or incidental to transportation improvements, including permanent maintenance yards, permanent storage of equipment and non-aggregate materials, weigh stations, rest areas and surface mining, processing and storage of aggregate or minerals as defined in ORS 517.750. (1, 9, 10 – as applicable).**

~~9. Temporary use of portable construction material processing plants, i.e. rock crushers, asphalt plants, etc. not to exceed one year.~~

~~10. Construction, reconstruction, or widening of highways, roads, or other transportation projects that are: (1) not improvements designated in the Transportation System Plan; or (2) not designed and constructed as part of a subdivision or planned or planned development subject to conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State of Oregon projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:~~

- ~~i) The project is designed to be compatible with existing land use and social patterns, including noise generation, safety and zoning.~~
- ~~ii) The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.~~
- ~~iii) The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.~~
- ~~iv) The project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.~~

~~11. Construction of rest areas, weigh stations, temporary storage yards and permanent material processing sites.~~

NOTE: If review of a conditional use request under this Section indicates that the proposed use or activity is inconsistent with the Transportation System Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional use permit review.

**Section 3.203. Lot Size and Dwelling Density.**

Except as provided in Section 5.030 and 5.040, ~~in a PF zone~~ parcels created within this zone and dwellings sited shall meet the following standards:

1. Provide the minimum impact on the surrounding agricultural or forest use;
2. Be of the minimum parcel size or number of dwellings necessary to fulfill the need; and
3. The minimum lot size shall be as large as necessary for proper installation and operation of water supply and sewage disposal systems.

**Section 3.204. Set-Backs.**

See Article IV.

**Section 3.205. Height of Buildings.**

See Article IV.

**Section 3.206. Off-Street Parking and Loading.**

See Article IV.

**~~Section 3.207. Reversion of Zoning Upon Private Ownership.~~**

~~Land designated in this comprehensive plan and zoning designation is intended for public facilities use by public agencies and not for privately owned lands.~~

- ~~1. Land which is transferred to public ownership for purposes of public highway or public road right of way or for other transportation projects shall automatically revert to the Public Areas comprehensive plan designation and to Public Facilities (PF) zoning.~~
- ~~2. Land designated for Public Facilities (PF) use which is transferred to private ownership by a public agency shall automatically revert to the comprehensive plan and zoning designation of the majority of the immediately adjacent lands upon transfer to private.~~
- ~~3. The county may consider an alternative comprehensive plan and zoning designation other than the designation of the majority of the immediately adjacent lands based on the following:~~

- ~~\_\_\_\_\_ a. Existing development on the subject property,~~
  - ~~\_\_\_\_\_ b. Location of the subject property relative to the adjacent uses,~~
  - ~~\_\_\_\_\_ c. Natural features or natural hazards on the subject property,~~
  - ~~\_\_\_\_\_ d. Adequacy of existing public facilities to serve the subject property if it were planned and zoned as alternatively proposed,~~
  - ~~\_\_\_\_\_ e. Adequacy of the existing road or street system to serve the subject property if it were planned and zoned as alternatively proposed, or~~
  - ~~\_\_\_\_\_ f. Other relevant factors.~~
- ~~4. Consideration of an alternative comprehensive plan and zoning designation shall be by the Board of Commissioners based upon factual evidence related to the items listed in subsection 2 above.~~
- ~~5. The Board of Commissioners shall consider an alternative to the Public Facilities (PF) plan and zoning designation in the same manner as a post-acknowledgment plan amendment.~~

CURRY COUNTY ZONING ORDINANCE

NON-RESOURCE ZONES

Proposed text amendments to the *Curry County Zoning Ordinance* to allow transportation projects in non-resource zones, which is necessary given the proposal to remove public roads and right of ways from the Public Facilities zone.

Added text is in **bold underlined**; Deleted text is ~~struck through~~.

Add the following text as an outright permitted use in the RR, RCR, R-1, R-2, R-3, RC, RRC, C-1 C-2, RI, and I zones:

**Transportation Improvements.**

Add the following text as conditional uses in the RR, RCR, R-1, R-2, and R-3 zones:

**Uses accessory or incidental to transportation improvements and that are sited within public right of ways or on publicly-owned lands adjacent to public right of ways, including permanent maintenance yards, permanent storage of equipment and non-aggregate materials, weigh stations, rest areas, and processing and storage of aggregate or minerals as defined in ORS 517.750. (1, 9, 10 – as applicable).**

Add the following text as conditional uses in the RC, RRC, C-1, C-2, RI, and I zones:

**Uses accessory or incidental to transportation improvements and that are sited within public right of ways or on publicly-owned lands adjacent to public right of ways, including permanent maintenance yards, permanent storage of equipment and non-aggregate materials, weigh stations, rest areas and surface mining, processing and storage of aggregate or minerals as defined in ORS 517.750. (1, 9, 10 – as applicable).**

Add the following text to Section 1.030 Definitions as subsection 143A:

**143A. Transportation Improvements. Construction, replacement, repair, installation or widening of bridges, culverts, streets, roads, highways, bike paths, pedestrian access and other similar uses. When associated with the items listed above, Transportation Improvements include removal or replacement of buildings, cut or fill, mineral exploration as defined in ORS 517.750, aggregate stockpiling, temporary storage of equipment and non-aggregate materials, temporary maintenance yards, control signs, fencing, guardrail, median barriers, lighting and other similar uses. For the purpose of transportation improvements, "temporary" is a period not to exceed one year.**

Revise the following text in Section 1.030(147) Definitions to read as follows:

147. Utility Facility Necessary for Public Service. A facility or structure for the generation and distribution of a public service including but not limited to electrical power, communications, natural gas, water, sewage, fire and police protection, ~~and road maintenance which provides for a~~

~~public need~~; this use does not include a facility or structure for the generation of power for public sale.