

**BEFORE THE BOARD OF COMMISSIONERS  
OF BAKER COUNTY, OREGON**

<b>AN ORDINANCE AMENDING CHAPTER 760 OF THE BAKER COUNTY ZONING ORDINANCE TO CLARIFY CERTAIN REQUIREMENTS FOR UTILITY-SCALE SOLAR POWER GENERATION FACILITIES</b>	) ) ) )	<b>ORDINANCE NO. 2024-01 AMENDING ORDINANCES 2014-01 AND 2021-01</b>
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WHEREAS, applicant Durkee Solar, LLC, c/o Heelstone Development, LLC, has applied for an amendment to the standards in Baker County Zoning Ordinance Sections 760.03.E.4.b and E.4.d to clarify certain provisions that apply to utility-scale solar power generation facilities; and

WHEREAS, Baker County has provided notice to the public of these changes, consistent with the requirements of the Zoning Ordinance and state law; and

WHEREAS, the Baker County Planning Commission conducted a duly noticed public hearing on January 3, 2024, where they received public testimony. The Planning Commission closed the public hearing at the January 3, 2024 meeting and a decision was made to recommend approval of the amended language of the Zoning Ordinance to the Board of Commissioners as presented in Exhibit A; and

WHEREAS, the Board of Commissioners held public hearings on January 17 and February 7, 2024; and

WHEREAS, the proposal was found to comply with all applicable standards to amend the Baker County Zoning Ordinance;

NOW THEREFORE, THE BAKER COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1: Sections 760.03.E.4.B and E.4.d will be adopted in full as shown in Exhibit A attached hereto. A record of edits is on file in the Planning Department.

Read for the first time this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Read for the second time by title only this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Adopted by the Baker County Board of Commissioners this \_\_\_ day of \_\_\_\_\_, 2024.

This ordinance shall take effect 90 days following adoption, on the \_\_\_ day of \_\_\_\_\_, 2024.

BAKER COUNTY BOARD OF COMMISSIONERS:

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Shane Alderson, Commission Chair

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Christina Witham, Commissioner

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Bruce Nichols, Commissioner

Attest

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Erin Linan, Management Assistant  
Baker County Board of Commissioners

Exhibit A - Amended Baker County Zoning Ordinance Section 760.03

**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.