

**Chapter 540**  
**SPECIAL ZONING DISTRICTS**

- 540.01 Airport Development Zone (AD)**
- 540.02 Sumpter Valley Management Area Zone (SVMA)**
- 540.03 Sumpter Valley Management Area Buffer Zone (Buffer Zone)**
- 540.04 Motor Sports Limited Use Combining Zone (MSLUC)**
- 540.05 Old Mill Limited Use Combining Zone (OMLUC)**

**540.01 Airport Development (AD) Zone**

- A. Purpose. The purpose of the Airport Development Zone (AD) is to allow continued development of the airport and associated uses.
- B. Uses Permitted Through a Type I Procedure. In the AD Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.05:
  - 1. Flight and flying services, passenger services, surveying and engineering.
  - 2. Aviation fuel sales, air frame and engine repair and maintenance.
  - 3. Hangars and warehouses.
  - 4. Farming, except for feedlots and those agricultural uses that foster an increase of wildfowl.
  - 5. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
  - 6. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - 7. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - 8. Local distribution utility facilities as defined in Chapter 150.
  - 9. Special events permitted through the provisions of Chapter 235 of this ordinance.
- C. Uses Permitted Through a Type III Procedure. In the AD Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210:
  - 1. Retail sales of aircraft and related equipment, agricultural, irrigation, and chemicals.
  - 2. Motel/Restaurant, gasoline sales, convenience sales.
  - 3. Parking lots, residences for security, fire crew and night service.

4. Manufacturing, compounding, fabricating, processing, repairing, packing or storing. Such use must conduct all operations and store materials entirely within enclosed buildings with the exception of parking and loading activities. Operations must be free of objectionable odor, noise, smoke, dust, glare, heat or other adverse effects on neighboring property.
  5. Public buildings.
  6. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  7. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  8. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
  9. Special events permitted through the provisions of Chapter 235 of this ordinance.
- D. Limitations on Uses. All uses listed in Sections 540.03(A), Section 540.03(B) or Section 540.03(C) are subject to the provisions of the County's Airport Ordinance, adopted July 29, 1975, as amended, of this Ordinance. All uses occurring upon land owned by the City of Baker may also be subject to city regulation.

#### **540.02 Sumpter Valley Management Area (SVMA) Zone**

- A. Purpose. The purpose of the Sumpter Valley Management Area (SVMA) Zone is to provide for the public health, safety and general welfare, and to protect the mineral, aggregate and wildlife habitat values of the dredged area by implementing the Sumpter Valley Dredge Tailing Management Plan.
- B. Other regulations not circumvented. A use or action allowed by this Ordinance, or permit issued, pursuant hereto, may not be construed to circumvent or supersede other State or Federal regulations applicable to the land area involved, which includes the following land areas:
1. **Buffer zone:** refers to the area of land in the county adjoining the geographic area and bounded as follows:
    - a. North boundary: Sumpter Valley Highway (Hwy. 7);
    - b. West boundary: Sumpter Valley Highway (Hwy 7).
    - c. East boundary: Clear Creek Road (Hudspeth Lane);South boundary: Huckleberry Loop where such road exists; otherwise, a distance of 1000 feet south of the South Dredge Line.
  2. **Geographic area:** refers to the area of land in the County bounded as follows:
    - a. West boundary: Highway 7 (Whitney-Tipton) in Sections 3 and 10, Township 10 South, Range 37 East, W.M., Baker County, Oregon;
    - b. East boundary: Clear Creek Road (Hudspeth Lane) along the common section line of Sections 17 and 18, Township 10 South, Range 38 East, W.M., Baker County, Oregon;

- c. North boundary: The North Dredge Line;  
South boundary: The South Dredge Line.

C. Uses Permitted Through a Type I Procedure. In the SVMA Zone, the following uses and their accessory uses may be permitted in the Geographic Area when authorized in accordance with the provisions of Section 115.05:

1. Wildlife management according to Section 540.04(E)(1).
2. Recreational development according to Section 540.04(E)(2).
3. Livestock grazing.
4. Local distribution utility facilities. Towers 200' or higher must be reviewed as a Conditional Use.
5. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
6. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
7. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
8. Special events permitted through the provisions of Chapter 235 of this ordinance.
9. When in conjunction with or ancillary to the Sumpter Valley Railroad Restoration, Inc., the following developments and uses may be permitted in order to establish and maintain a heritage railroad:
  - a. A depot
  - b. A museum
  - c. An archives building
  - d. Educational exhibits
  - e. Buildings, facilities and activities necessary for the conservation, maintenance and restoration of historic railroad locomotives and rolling stock
  - f. Ancillary facilities and storage of railroad-related items typical of a railyard
  - g. Use of the existing road bed and right-of-way for the Sumpter Valley Railroad, throughout its course in the Geographic Area, for trackage necessary to support the operation of a heritage railroad.
  - h. Crew facilities and recreational vehicle parking, strictly limited to temporary use by volunteers while employed at the railroad.

D. Uses Permitted Through a Type II Procedure. In the SVMA Zone, the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 115.06:

1. Wildlife Management – Geographic Area: *\*\*\*This Section, as described below, does not currently apply as there is not an active license between the Oregon Department of Fish and Wildlife and Baker County. If, in the future, a license agreement is instated, this Section may be amended.*
  - a. The State Department of Fish and Wildlife, in accordance with its license with the Baker County Board of Commissioners, shall have authority to take those actions and do those things reasonably necessary to establish, maintain, and perpetuate the various kinds of wildlife associated with the Geographic Area or that may be introduced by such Department into the area.
  - b. Such Department shall have authority to cause one or more of the Tailing Ponds to be deepened to an extent calculated to provide an adequate depth of water for fish survival: provided, however, that one or more of such ponds deepened shall have structures designed to accommodate the elderly or physically handicapped person as to access for fishing therein.
  - c. Such Department shall have authority to establish those structures, or make those fills, designed to stabilize the depth of water in those Tailing Ponds intended to be stocked and maintained with fish or other forms of aquatic wildlife.
  - d. In order to reduce or alleviate the conflicts between the wildlife management of lands and the mineral resource management of lands in the Geographic Area, such Department shall give due consideration to those land areas designated for mineral removal; such consideration shall include the utilization of setback distances from mineral resource areas.
  - e. Nothing in this Section may be construed to deny vehicular access to the Powder River Gauging Station, which access is reasonably required for inspection and maintenance of such Station.
2. Recreational Development – Geographic Area:
  - a. The Baker County Board of Commissioners shall have authority to establish and maintain a County Park and automobile parking areas in the Geographic Area as follows:
    - i. County Park and parking area. On the west side of the Huckleberry Loop within the boundaries of a triangle of land described by commencing at the intersection of the Huckleberry Loop and the Sumpter Valley Railroad Bed; thence northwesterly along said railroad bed a distance of 1360 feet; thence southerly to the intersection of the Powder River; thence southeasterly along the river to the Huckleberry Loop; thence northerly along said road to the point of beginning;
    - ii. Other parking area. On the east side of the Huckleberry Loop, within 300 feet of the center line thereof between the Powder River and Highway 7; and on the east side of the Whitney-Tipton Highway, within 300 feet of the center line thereof, between the Powder River and the Sumpter Valley Railroad Bed.
  - b. Should the Baker County Board of Commissioners elect to construct pedestrian trails in the Geographic Area, the following factors will be considered:

- i. The State Department of Fish and Wildlife may be consulted regarding the location of such trails.
  - ii. One or more of such trails shall be designed to accommodate the elderly or the physically handicapped person.
- E. Uses Permitted Through a Type III Procedure. In the SVMA Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210:
  1. When in conjunction with or ancillary to the Sumpter Valley Railroad Restoration, Inc., the following developments and uses may be permitted in order to establish and maintain a heritage railroad:
    - a. Retail sales limited to customers of the railroad.
    - b. Administrative offices and research facilities necessary for the operation of the Sumpter Valley Railroad, Inc.
  2. Mining. Mining operations may be allowed, providing that such operations conform to the standards and criteria of this Section and providing further that such operations shall be subject to a zoning permit in writing issued by the Baker County Planning Commission:
    - a. Location. Mining operations may be allowed on in the following locations within the Geographic Area:
      - i. On County-owned land.
      - ii. On State-owned land in the E $\frac{1}{2}$  , NE $\frac{1}{4}$  , SE $\frac{1}{4}$  of Section 18, Township 10 South, Range 38 East, W.M., Baker County, Oregon.
      - iii. On privately-owned land.
    - b. Operating Requirements. All mining operations allowed by this Section shall be conducted and reclaimed in a manner which:
      - i. maintains a setback distance of no less than 20 feet from any portion of the banks of the Powder River.
      - ii. maintains a setback distance of no less than 34 feet from the center line of the Sumpter Valley Railway Bed.
      - iii. leaves no cutbanks with slopes greater than a ratio of three feet horizontal distance to one-foot vertical distance (3:1).
      - iv. protects the naturally growing, riparian vegetation along the banks of the Powder River and around the Tailing Ponds.
      - v. prevents adverse siltation or other pollution or filling of the Powder River or Tailing Ponds or adverse pollution of the ground water.
    - c. Baker County-Owned Property. In addition to the operating standards listed in subsection (b) above, all mining on Baker County-owned property shall maintain a setback distance of no less

than 300 feet from the center line of the Sumpter Valley Railway Bed on Baker County-owned property.

- d. Additional Permits. Mining Operations permitted according to this Section may also be subject to a permit, pursuant to the State Surface Mining Laws.
3. Major utility facilities.
4. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
5. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
6. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
7. Special events permitted through the provisions of Chapter 235 of this ordinance.

#### **540.03 Sumpter Valley Management Area Buffer Zone (Buffer Zone)**

- A. Purpose. The purpose of the Sumpter Valley Management Area Buffer Zone (SVMA Buffer Zone) is to provide a transitional area from the Sumpter Valley Management Area (SVMA) to adjoining lands. The SVMA Buffer Zone refers to the area of land in the County adjoining the SVMA zone, as shown on the Zoning Map.
- B. Uses Permitted Through a Type I Procedure. In the SVMA Buffer Zone, the following uses are allowed outright:
  1. Farm use.
  2. Propagation and harvesting of forest products.
  3. Location distribution utility facilities.
  4. Outbuildings customarily used in conjunction with farm use.
  5. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
  6. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  7. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  8. Special events permitted through the provisions of Chapter 235 of this ordinance.

C. Uses Permitted Through a Type III Procedure. In the SVMA Buffer Zone, the following uses may be allowed, providing such uses conform to the applicable standards and criteria of this Section and providing that such uses shall be subject to a permit in writing issued by the Baker County Planning Commission. These uses shall require a Conditional Use Permit as described in Chapter 210:

1. Single-family dwellings accessory to and necessary for farm use.
2. Single-family dwellings not in conjunction with farm use, subject to criteria of ORS 215.284.
3. Home occupations.
4. Major utility facilities.
5. Exploration for mineral and aggregate resources.
6. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
7. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
8. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
9. Special events permitted through the provisions of Chapter 235 of this ordinance.

D. Standards and Criteria. These standards and criteria shall apply to all developments within the SVMA Buffer Zone:

1. The dwellings and accessory buildings allowed by this Section shall be located upon naturally elevated or terraced land above the meadowland, grasslands and wetlands and shall not be located upon land that has been dredge mined.
2. The standards for minimum ownerships, dimensional standards and setbacks from property lines in the SVMA Buffer Zone shall be no less than those of the Exclusive Farm Use (EFU) Zone as determined by the applicable provisions of the Baker County Zoning Ordinance 2014-1, as amended or revised.
3. Dwellings and other buildings requiring a sewage disposal system shall be located on land approved by the Department of Environmental Quality.

E. Non-conforming Use.

1. A legal use of land or a building or other structure, existing prior to the effective date of this Ordinance, that does not conform to the provisions of this Ordinance, may be continued, but such use shall not be expanded or otherwise made further non-conforming.

2. A new use replacing a non-conforming use shall conform to the provisions of Sections 540.04 and 540.05.

F. Variances.

1. The Baker County Planning Commission shall have authority to grant a Variance permit, in accordance with Chapter 240, from the provisions of Sections 540.04 and 540.05 where it can be shown that owing to a special and unusual circumstance relating to a particular lot or parcel of land, or to a particular building or other structure, the literal interpretation of this Ordinance would cause an undue or unnecessary hardship.
2. No Variance permit shall be granted unless it can be shown that all of the following circumstances exist:
  - a. The Variance is necessary for the preservation of a property right of an applicant substantially the same as owners of other property in the same vicinity.
  - b. The granting of the Variance will not be materially detrimental to any purpose of this Ordinance nor be injurious to other property in the same vicinity.
  - c. The Variance requested is the minimum Variance which will alleviate the hardship.
3. A Variance permit issued according to this Section shall apply to and run with the land involved provided, however, that the Baker County Planning Commission shall have authority to set reasonable time limits during which time the use of land or the use of a building or other structure shall be commenced and diligently pursued.
4. A use not established in accordance with the provisions of Section 540.05(G)(3) shall be subject to a review and reconsideration by the Baker County Planning Commission. The reconsideration, depending upon changing conditions and circumstances, may include a revocation of a permit formerly authorized.
5. An application for a Variance permit shall be made to the Planning Director on forms provided for that purpose, along with an administrative fee as established by the Baker County Board of Commissioners. The Baker County Board of Commissioners, by order thereof, shall have authority to adjust the fee in (5) of this Section, from time to time, as it deems necessary.
6. All applications for a Variance shall be published in a newspaper of general circulation in the County at least one time no later than 14 days prior to the date set for the public hearing upon the application. In addition, all land owners of record owning land within 250 feet of the land involved in a Variance application shall receive individual notice by mail of the date, time and place of the hearing.
7. The Baker County Board of Commissioners, by order thereof, shall have authority to adjust the fee in 540.05(G)(5), from time to time, as it deems necessary
8. This Section may be reviewed and revised periodically, as necessary, provided that any revision of this Ordinance and zoning map shall not be in conflict with any provision of the Dredge Tailing Plan. "*Revision*" includes any amendment.



#### **540.04 Motor Sports Limited Use Combining Zone (MSLUC)**

- A. Purpose. The purpose of the Motor Sports Limited Use Combining (MSLUC) Zone is to allow motor sports and associated uses in combination with permitted uses and conditional uses allowed in the underlying EFU Zone.
- B. Uses Permitted Through a Type I Procedure. In the MSLUC Zone, uses permitted in the EFU Zone under Section 410.02 shall be permitted outright when authorized in accordance with the provisions of Section 115.05.
- C. Uses Permitted Through a Type II Procedure. In the MSLUC Zone, uses permitted in the EFU Zone under Section 410.03 may be permitted when authorized in accordance with the provisions of Section 115.06.
- D. Uses Permitted Through a Type III Procedure. In the MSLUC Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210:
1. Motor sports events including:
    - a. Cars and trucks.
    - b. Snowmobiles.
    - c. Motorcycles and four wheelers.
    - d. Model airplanes.
  2. Accessory uses including, but not limited to:
    - a. Concession stands.
    - b. Parking areas to include participant overnight self-contained camping.
    - c. Watchman's quarters (maximum one residence).
    - d. Restrooms.
    - e. First aid facilities.
    - f. Maintenance and repair facilities.
    - g. Spectator areas.
    - h. Participant fueling facilities.
    - i. Training clinics and schooling shows.
    - j. On-premise advertising sign.
  3. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  4. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  5. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
- E. Minimum Parcel Sizes. New parcels in the MSLUC Zone shall comply with the following minimum parcel size requirements:

1. 80 acres for motor sports events.
  2. All other uses shall comply with Section 410.05.
- F. Site Plan Requirements. A request for motor sports events shall be accompanied by a site plan identifying property boundaries and any site improvements such as, but not limited to, access, parking areas, buildings, impervious surfaces, landscaping drainage, signs and dust control.
- G. Property Development Standards. In the MSLUC Zone, the following standards shall apply:
1. All lighting shall be shielded and directed away for public roadways.
  2. A drainage plan shall include provisions for no increased impacts to adjacent property from development.
  3. All setback and frontage requirements in Chapter 340 must be complied with.
  4. Dust control must be provided for, and must be addresses by the site plan.

#### **540.05 Old Mill Limited Use Combining Zone (OMLUC)**

- A. Northern Portion of Tax Lot 200 of Map No. 08s46e21a – ( $\pm 10.52$  acres), depicted in Map 1 of this Section.
1. Uses Permitted Through a Type I Procedure:
    - a. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
    - b. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
    - c. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
    - d. Local distribution utility facilities.
    - e. Special events permitted through the provisions of Chapter 235 of this ordinance.
  2. Uses Permitted Through a Type II Procedure. The following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.06.
    - a. Single-Family Dwellings. No more than two dwellings on northern portion ( $\pm 10.52$  acres).
    - b. Farm uses, except for feedlots and sales yards, subject to livestock concentration limitations found Section 510.05.
    - c. Home Occupations.

3. Uses Permitted Through a Type III Procedure. The following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210.

- a. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760
- b. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
- c. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
- d. Special events permitted through the provisions of Chapter 235 of this ordinance.

B. Southern Portion of Tax Lot 200 of Map No. 08s46e21a ( $\pm 18.04$  acres), depicted in Map 1 of this Section.

1. Uses Permitted Through a Type I Procedure:

- a. A Residential Wind Power Generation Facility, subject to the provisions of Chapter 750.
- b. A Small-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
- c. A Commercial-Scale Solar Power Generation Facility, if measuring less than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
- d. Local distribution utility facilities.
- e. Special events permitted through the provisions of Chapter 235 of this ordinance.

2. Uses Permitted Through a Type II Procedure. The following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.06.

- a. Service Stations
- b. Welding or Machine Shops
- c. Storage and Processing of Agricultural Products
- d. Watchman's Quarters
- e. Quarters/Temporary Housing in Conjunction with Industrial Use

- f. Public Use Buildings or use
  - g. Convenience Stores
  - h. Public or Private Parks or Playgrounds
  - i. Manufacturing, compounding, fabricating, processing, repairing, and packaging.
  - j. Processing, manufacturing, sorting, storing and warehousing of wood products.
3. Uses Permitted Through a Type III Procedure. The following uses and their accessory uses shall be permitted when authorized in accordance with the provisions of Section 115.07. These uses shall also require a Conditional Use Permit as described in Chapter 210.
- a. Any processing, storing or manufacturing which emits odors, fumes, gases or treated water, including the storage of hazardous materials.
  - b. Commercial dwellings
  - c. Travel Trailer Parks and RV Parks
  - d. A Small-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - e. A Commercial-Scale Solar Power Generation Facility, if measuring more than 3 acres and with net-metering not exceeding 50% of the average expected annual energy production, subject to the provisions of Chapter 760.
  - f. A Utility-Scale Solar Power Generation Facility, subject to the provisions of Chapter 760.
  - g. Special events permitted through the provisions of Chapter 235 of this ordinance.

# Map 1: OMLUC Zone

