

1006 WATER SUPPLY, SANITARY SEWER, SURFACE WATER, AND UTILITIES CONCURRENCY

1006.01 PURPOSE

- A. To provide adequate services and facilities appropriate to the scale and type of development concurrently with the development it is intended to serve.
- B. Implement the groundwater protection provisions of the Comprehensive Plan.
- C. Assure that developments that rely on groundwater have sufficient water available to serve the proposed uses.
- D. Allow an assessment of the impact that a proposed development to be served by well(s) may have on the sustainability of the affected aquifer.
- E. This ordinance is not intended to act as a guarantee that a property owner will locate an adequate water supply, that a water supply will continue to provide adequate water, or that a water supply will be exempt from further regulation.
- F. Support and encourage sustainable development in the planning and provision of utility services and infrastructure.

1006.02 GENERAL STANDARDS

- A. The location, design, installation, and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbance of soil and site consistent with the rules and regulations of districts for surface water management.
- B. All development which has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be installed underground.
- C. Street lights shall be required for all development inside the Portland Metropolitan urban growth boundary.
 - 1. Street lighting shall be installed pursuant to the requirements of the County Service District No. 5 and the company serving the development. In every instance, a street light shall be installed where a new road intersects the County right of way and, in the case of subdivisions, at every intersection within the subdivision.
 - 2. Areas outside County Service District No. 5 shall annex to the district through petition to the district.

- D. Easements shall be provided along property lines as deemed necessary by the Department of Transportation and Development, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency. Such easements shall be designated on the final plat of all subdivision, and on the final map of all partitions.
- E. All development which has a need for, or will be provided with public or community water service shall install water service facilities and grant necessary easements pursuant to the requirements of the district or company serving the development.
- F. Approval of a development that requires public or community water service shall be granted only if the applicant provides a preliminary statement of feasibility from the water system service provider.
1. The statement shall verify that water service, including fire flows, is available in levels appropriate for the development and that adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution. Alternatively, the statement shall verify that such levels and capacity can be made available through improvements completed by the developer or the system owner.
 2. If the statement indicates that water service is adequate with the exception of fire flows, the applicant shall provide a statement from the fire district serving the subject property that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.
 3. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve water system capacity for the development.
- G. Prior to final approval of any partition or subdivision, the applicant shall provide evidence that any wells in the tract subject to temporary or permanent abandonment under ORS 537.665 have been properly abandoned.
- H. A final plat for any partition or subdivision in a Sensitive Groundwater Area relying on an exempt-use well or wells shall contain the following notation:
- “The property herein described is situated in a “Sensitive Groundwater Area” based on regulatory action by the State of Oregon. The availability of groundwater may be limited, and if a long-term decline in water supply occurs the property owner may need to find an alternate source. Clackamas County is not responsible for deepening or replacing wells that fail to produce an adequate supply of groundwater, or that are subject to regulatory action by the State of Oregon.”*

1006.03 WATER SUPPLY STANDARDS INSIDE THE PORTLAND METROPOLITAN URBAN GROWTH BOUNDARY AND MOUNT HOOD URBAN AREA.

The provisions of this section apply within the Portland Metropolitan urban growth boundary and Mount Hood urban area:

- A. Land divisions or other development requiring water service shall not be approved, except as provided in Subsection 1006.03(D), unless they can be served by a public water system in compliance with drinking water standards as determined by the Oregon Health Division.
- B. New development requiring water service within the boundaries of a water service system, created pursuant to ORS Chapters 264, 450, or 451, shall receive service from this system.
- C. New public water systems shall not be created unless formed pursuant to ORS Chapters 264, 450, or 451.
- D. A lot of record not located within the approved boundaries of a public water system may be served by an alternative water source.

1006.04 DEFINITIONS

Unless specifically defined in Subsection 1006.04 or in Section 202, words or phrases used in Section 1006 shall be interpreted to give them the same meaning as they have in common usage and to give Section 1006 its most reasonable application.

- A. “Aquifer” means a layer of rock or alluvial deposit which holds water.
- B. “Development permit” means any county partition or subdivision approval; approval of commercial, institutional or industrial development; or residential building or manufactured dwelling placement permit, including any land-use decision, as defined in ORS 197.015, required by this ordinance to be made prior to issuance of the residential building or manufactured dwelling placement permit.
- C. “Exempt-use well” means a well from which groundwater is used as defined in ORS 537.545(1) as amended.
- D. “Groundwater” means any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir or other body of surface water, whatever may be the geological formation or structure in which such water stands, flows, percolates or otherwise moves.

- E. “Permitted well” means a well from which the intended use of water requires a registration, certificate of registration, application for a permit, permit, certificate of completion or groundwater right certificate under ORS 537.505 to 537.795 and 537.992.
- F. “Sensitive Groundwater Area” means any area classified by the State of Oregon as a groundwater limited area, critical groundwater area or other area where new groundwater appropriations are restricted by the State of Oregon.
- G. “Unreasonably interfere” means a proposed development will result in one or more senior ground water appropriators being unable to obtain either the permitted or the customary quantity of ground water, whichever is less, from a reasonably efficient well that fully penetrates the aquifer where the aquifer is relatively uniformly permeable. However, in aquifers where flow is predominantly through fractures, full penetration may not be required as a condition of finding substantial or undue interference.

1006.05 WATER SUPPLY STANDARDS OUTSIDE THE PORTLAND METROPOLITAN URBAN GROWTH BOUNDARY AND MOUNT HOOD URBAN AREA

The provisions of this section apply outside the Portland Metropolitan Urban Growth Boundary and the Mount Hood urban area.

- A. Applicants for any development permit shall specify a lawful water source for the proposed development, such as a public or community water system, certificated water right or exempt-use well.
- B. All subdivisions outside of the Portland Metropolitan Urban Growth Boundary proposing to a use an exempt-use well or wells and all land divisions, and new industrial, commercial or institutional development located within a Sensitive Groundwater area and proposing to use an exempt-use well or wells must affirmatively demonstrate:
 - 1. That the subject aquifer is capable of sustaining the proposed development with sufficient potable water.
 - 2. That the proposed development is not likely to unreasonably interfere with existing wells.
 - 3. That the proposed development is not likely to contribute to the overdraft of the affected aquifer.

- C. Unless waived by the Planning Director, an applicant for any proposed development subject to Subsection 1006.05(B) shall submit a hydrogeologic review with the subject application. The purposes of a hydrogeologic review are to provide information and professional analysis regarding the geology and hydrogeology of the area in the immediate vicinity of the proposed development for the County to determine compliance with Subsection 1006.05(B)(1) through (3). Study findings, maps, and conclusions shall be presented in a clear and understandable report.
1. A hydrogeologic review report shall include sufficient evidence and analysis to demonstrate compliance with Subsection 1006.05(B), and at a minimum, shall include the following information:
 - a. A map showing all lots and parcels within at least one-quarter mile of the proposed development;
 - b. The location, as determined by publicly available information, of all known wells on all lots or parcels within at least one-quarter mile of the proposed development, and the quantity of water permitted to be used;
 - c. The estimated use of groundwater within at least one-quarter mile of the proposed development, including but not limited to, 400 gallons/day of household use for each lot and parcel, 2,000 gallons/day for lawn and landscape irrigation from June through September, and water use from permitted wells. The estimated use of groundwater shall include any development or tentative land division which has been approved by the county, and shall assume development of a single-family residence on each undeveloped lot or parcel.
 - d. The quantity of water the proposed land use will utilize. If the proposal is for residential use, water use shall be calculated as 400 gallons/day per household and 2000 gallons/day for lawn and landscape irrigation from June through September. If the proposal is for a land division for residential purposes, all proposed lots or parcels shall be included in the calculation, and the calculation shall assume that the remainder of the tract will be developed at its allowed density.
 - e. Identification of aquifers in the area of the subject property;
 - f. Compilation and review of available geologic and hydrogeologic studies of the review area;
 - g. Compilation and evaluation of available well deepening and replacement well information in the review area;

- h. Compilation and analysis of existing geologic information, including representative well logs, physical location of representative wells, and an evaluation of the local stratigraphy and geologic structure in the review area;
 - i. Compilation and analysis of existing and available water level and pump test information including evaluation of long-term stability and sustainability of groundwater levels (heads); and
 - j. Interpretation of the information gathered for Subsections 1006.05(C)(1)(a) through (i), including preparation of geologic and hydrogeologic maps and cross sections necessary to support and/or illustrate the interpretation.
 - 2. A hydrogeologic review shall conclude that there is sufficient information to demonstrate compliance with Subsection 1006.05(B), and may need to be based on draw down tests or other physical measurements where necessary.
 - 3. The Planning Director may, at the Director's discretion, allow an applicant to modify the water use assumptions used in the hydrogeologic review where an applicant proposes enforceable water conservation and/or reuse measures, including but not limited to:
 - a. Gray water use;
 - b. Water conserving appliances and fixtures;
 - c. Landscaping with drought resistant plants; or
 - d. Rainwater harvest and/or the use of cisterns.To be deemed enforceable, any conservation or reuse measure must be approved by County Counsel.
- D. All reviews and plans required by Subsection 1006.05 shall be reviewed by a qualified professional of the County's choice during the development review process. Such review shall include examination to ensure required elements have been completed, study procedures and assumptions are generally accepted, and all conclusions and recommendations are supported and reasonable.
- E. Outside of Sensitive Groundwater Areas, the Planning Director may, at the Director's discretion, waive some or all of the requirements for a hydrogeologic review where an applicant demonstrates through well logs or other evidence that the specified information is not necessary to determine compliance with Subsection 1006.05(B).

- F. Water service for partitions and subdivisions shall be provided according to the provisions of ORS 92.090. When no water is to be provided by a public or community water system, there shall be a note on the final plat indicating that no public water service is being provided, in addition to the filing and disclosure requirements of ORS 92.090.
- G. Approved land divisions at densities requiring public water service shall include a note on the final plat indicating public water service is required for development.
- H. For any subdivision of 11 lots or more, all lots shall be served by a single public or community water source.

1006.06 PUBLIC SANITARY SEWER STANDARDS

- A. All development which has a need for public/private sanitary sewers shall install the facilities pursuant to the requirements of the district or company serving the development. Installation of such facilities shall be coordinated with the extension of necessary water services and storm drainage facilities.
- B. Approval of a development that requires public sanitary sewer service shall be granted only if the applicant provides a preliminary statement of feasibility from the sanitary sewage treatment service provider and the collection system service provider.
 - 1. The statement shall verify that sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.
 - 2. The service provider may require preliminary sanitary sewer system plans and calculations for the proposed development prior to signing a preliminary statement of feasibility.
 - 3. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve sanitary sewer system capacity for the development.
- C. Hotels and motels are permitted in unincorporated communities only if served by a community sewer system.

1006.07 SUBSURFACE SEWAGE DISPOSAL STANDARDS

- A. All development proposing subsurface sewage disposal shall receive approval for the system from the Clackamas County Water Environment Services, Soils Section prior to submittal of a land use application to the County for development. Said systems shall be installed pursuant to ORS 454.605-454.745 and Chapters 171, 523 and 828, Oregon Administrative Rules 340, Divisions 71 and 73 and the policies of the Clackamas County, WES, Soils Section.
- B. Within the Portland Metropolitan urban growth boundary and the Mount Hood urban area, all land divisions or other development requiring subsurface disposal systems shall be prohibited except for:
 - 1. A lot of record legally recorded prior to adoption of this Ordinance.
 - 2. Parcels of 10 acres or larger in areas designated as future urbanizable.
 - 3. Parcels that do not have a sanitary sewerage system that is legally and physically available as defined in OAR 340-071-0160(4)(f), including parcels which have unique topographic or other natural features which make sewer extension impractical as determined on a case-by-case basis.
 - 4. Areas under a sewer moratorium with sewer services five years or more away if the area is annexed into a city or district which can assure that future delivery of sewerage services is planned.

1006.08 SURFACE WATER MANAGEMENT STANDARDS

- A. All developments shall provide for positive drainage and adequate conveyance of storm and surface water runoff from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point and shall:
 - 1. Comply with the requirements of any special districts with surface water management regulatory jurisdiction; or
 - 2. The requirements of Section 1008, *Storm Drainage*, and the County Roadway Standards in areas not under the jurisdiction of a surface water management regulatory authority.
- B. Installation of stormwater management and conveyance facilities shall be coordinated with the extension of necessary water and sanitary sewer services.

- C. Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.
1. The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility.
 2. In those areas that are not within a surface water management district, the preliminary statement of feasibility shall be signed by the County Department of Transportation and Development, Engineering Division.
 3. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.

1006.09 EXCEPTIONS

- A. A land use application shall be deemed complete and may be approved without the submittal of one or more of the preliminary statements of feasibility required by Subsections 1006.02, 1006.06, and 1006.08 if the applicant demonstrates that a good faith attempt has been made to obtain the statement(s). At a minimum, demonstration of a good faith attempt shall require the applicant to submit the following:
1. A statement signed by the applicant indicating that the service provider or surface water management authority has not responded to a request for a preliminary statement of feasibility or has refused to issue one. When the refusal to issue a preliminary statement of feasibility is based upon a finding that adequate service cannot be provided, such refusal shall not qualify for an exception under this subsection; and
 2. A copy of a letter delivered to the service provider or surface water management authority clearly requesting a preliminary statement of feasibility. The letter shall be dated no less than 30 days prior to the submittal of the land use application.

- B. In the absence of evidence in the record to the contrary, it shall be presumed that the failure of a service provider or surface water management authority to respond to a request for a preliminary statement of feasibility constitutes a finding of adequacy of service. This presumption shall be for the purposes of land use application approval only and does not guarantee that service can be provided.

1006.10 ADMINISTRATION

- A. For subdivisions, partitions, and commercial, industrial, and institutional developments, the provisions of Section 1006 shall be applied during the development review process.

[Amended by Ord. ZDO-252, 6/1/15]