

T. Wind Power Generation Facility Siting Requirements

1. Purpose. The Gilliam County Facility Siting Requirements are intended to establish a local conditional use permitting process that is clear, timely, and predictable as well as encompasses important local issues such as the health, safety and welfare of citizens in Gilliam County.
2. Definitions
 - a. “Commercial Wind Power Generation.” An activity carried out for monetary gain using one or more wind turbine generators that has a combined generating capacity greater than 1 MW.
 - b. “Decommissioning Fund.” An adequate financial vehicle dedicated and maintained with appropriate yearly adjustments to assure the money to dismantle the Wind Power Generation Facility and to restore the site to a useful, nonhazardous condition.
 - c. “Wind Power Generation Facility.” An energy facility that consists of one or more wind turbines or other such devices and their related or supporting facilities that produce electric power from wind and are:
 - (1) Connected to a common switching station; or
 - (2) Constructed, maintained, or operated as a group of devices.
 - d. Energy Facility Siting Council (EFSC), a board of citizens that determines if a wind facility of 105 MW or more may be built in Oregon.
3. Procedure. The procedure for taking action on the siting of a facility is a request for a conditional use. A public hearing pursuant to Article 7 shall be held to determine if the applicant meets the siting requirements for a Wind Power Generation Facility. The requirement for a hearing will not apply to proposed facilities for which EFSC is making the land use decision.
4. Wind Power Generation Facility Siting Requirements. The requirements set out in this section shall apply for the application and review of the siting of a Wind Power Generation Facility and the issuance of a Gilliam County Facility Conditional Use Permit.
 - a. The following information shall be provided as part of the application:
 - (1) A general description of the proposed Wind Power Generation Facility, a tentative construction schedule, the legal description of the property on which the facility will be located, and identification of the general area for all components of the proposed Wind Power Generation Facility, including a map showing the location of components.
 - (2) Identification of potential conflicts, if any, with:
 - (a) Accepted farming practices as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm uses;

- (b) Other resource operations and practices on adjacent lands except for wind power generation facilities on such adjacent lands; and
 - (c) The nature and extent of the proposed facility on the cost of accepted farm or forest practices on surrounding EFU land.
- (3) A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in the Gilliam County's Transportation System Plan (TSP) and the transportation impacts of the proposed Wind Power Generation Facility upon the local and regional road system during and after construction, after consultation with the Gilliam County Public Works Director. The plan will designate the size, number, location and nature of vehicle access points.
- (4) An avian impact monitoring plan. The avian monitoring plan shall be designed and administered by the applicant's wildlife professionals. For projects being sited by EFSC, compliance with EFSC's avian monitoring requirements will be deemed to meet this requirement. The plan shall include the formation of a technical oversight committee to review the plan, and consist of the following persons:
- (a) The landowners/farm tenants.
 - (b) Facility owner/operator representative. (Chair)
 - (c) Oregon Department of Fish and Wildlife representative, if the agency chooses to participate.
 - (d) Two Gilliam County residents with no direct economic interest in the project and recommended by the applicants for appointment by the Gilliam County Board of Commissioners.
 - (e) U.S. Fish and Wildlife representative, if the agency chooses to participate.
 - (f) Gilliam County Planning Commission member.

At the request of applicant, this committee requirement may be waived or discontinued by the County.

- (5) A Covenant Not to Sue with regard to generally accepted farming practice shall be recorded with the County. Generally accepted farming practices shall be consistent with the definition of Farming Practices under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices.
- (6) A fire prevention and emergency response plan for all phases of the life of the facility. The plan shall address the major concern associated with the terrain, dry conditions, and limited access.
- (7) An erosion control plan, developed in consultation with the Gilliam County Public Works Department. The plan should 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. This requirement will be satisfied if the

applicant has an NPDES (National Pollution Discharge Elimination System) permit.

- (8) A weed control plan addressing prevention and control of all Gilliam County identified noxious weeds directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.
- (9) A socioeconomic impact assessment of the Wind Power Generation Facility, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed problematic, decision makers need information about the socioeconomic impacts that are likely to occur.
- (10) The requirements of OAR 660-033-0130(37) will be satisfied
- (11) Information pertaining to the impacts of the Wind Power Generation Facility on:
 - (a) Wetlands;
 - (b) Wildlife (all potential species of reasonable concern);
 - (c) Wildlife habitat;
 - (d) Criminal activity (vandalism, theft, trespass, etc.) and proposed actions, if any, to avoid, minimize or mitigate negative impacts.
- (12) A dismantling and decommissioning plan of all components of the Wind Power Generation Facility, as provided in this section.

Deleted: If the Wind Power Generation Facility exceeds 20 acres in size, a Goal 3 exception is required as found in OAR 660-033-0130(22).

- b. Gilliam County may impose clear and objective conditions in accordance with the County Comprehensive Plan, County Development Code and State law, which Gilliam County considers necessary to protect the best interests of the surrounding area, or Gilliam County as a whole.
- c. Prior to commencement of any construction, all other necessary permits shall be obtained, e.g., Gilliam County Zoning Permit, road access and other permits from the Gilliam County Public Works Department, and from the Oregon Department of Transportation.
- d. The following requirements and restrictions apply to the siting of a facility:
 - (1) The Wind Power Generation Facility shall be on property zoned EFU, and no portion of the facility shall be within 3,520 feet of properties zoned residential use or designated on the Comprehensive Plan as residential. (For clarification purposes of this section, EFU Zones are not considered zoned for residential use.) Towers shall be set back five rotor diameters from the downwind property lines in the direction of the dominant winds across the property, and two diameters from all other property lines and county boundaries unless it can be demonstrated that a lesser setback can protect the wind access for the downwind properties.

- (2) Reasonable efforts shall be made to blend the wind facility's towers with the natural surroundings in order to minimize impacts upon open space and the natural landscape.
- (3) Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- (4) The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.
- (5) The turbine towers shall be of a size and design to help reduce noise or other detrimental effects.
- (6) Private access roads shall be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.
- (7) Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 3 feet; elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.
- (8) Required permanent maintenance/operations buildings shall be located off-site in one of Gilliam County's appropriately zoned areas, except that such a building may be constructed on-site if:
 - (a) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers; and
 - (b) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of this section.

(9) To the extent feasible, the County will accept information presented by an application for an EFSC proceeding in the form and on the schedule required by EFSC.

Deleted: (9) - A Wind Power Generation Facility shall comply with the Specific Safety Standards for Wind Facilities delineated in OAR 345-024-0010 (as adopted at time of application).¶
Deleted: 10

5. Decommissioning/Dismantling Process. The applicant's dismantling of incomplete construction and/or decommissioning plan for the Wind Power Generation Facility shall include the following information
 - a. A plan for dismantling and/or decommissioning that provides for completion of dismantling or decommissioning of the facility without significant delay and protects public health, safety and the environment in compliance with the restoration requirements of this section.
 - b. A description of actions the facility owner proposes take to restore the site to a useful, no hazardous condition, including options for post-dismantle or decommission land use, information on how impacts on fish, wildlife and the

environment would be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions in compliance with the requirements of this section.

- c. A current detailed cost estimate, a comparison of that estimate with present funds set aside for dismantling or decommissioning, and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. The cost estimate will be reviewed and be updated by the facility owner/operator on a 5-year basis.
- d. Restoration of the site shall consist of the following:
 - (1) Dismantle turbines, towers, pad-mounted transformers, meteorological towers and related aboveground equipment. All concrete turbine pads shall be removed to a depth of at least three feet below the surface grade.
 - (2) The underground collection and communication cables need not be removed if at a depth of three feet or greater. These cables at a depth of three feet or greater can be abandoned in place if they are deemed not a hazard or interfering with agricultural use or other consistent resource uses of the land.
 - (3) Gravel shall be removed from areas surrounding turbine pads.
 - (4) Access roads shall be removed by removing gravel and restoring the surface grade and soil.
 - (5) After removal of the structures and roads, the area shall be graded as close as reasonably possible to its original contours and the soils shall be restored to a condition compatible with farm uses or consistent with other resource uses. Re-vegetation shall include planting by applicant of native plant seed mixes, planting by applicant of plant species suited to the area, or planting by landowner of agricultural crops, as appropriate, and shall be consistent with the weed control plan approved by Gilliam County.
 - (6) Roads, cleared pads, fences, gates, and improvements may be left in place if a letter from the landowner is submitted to Gilliam County indicating said landowner will be responsible for, and will maintain said roads and/or facilities for farm or other purposes as permitted under applicable zoning.
- e. The applicant (facility owner/operator) shall submit to Gilliam County a bond or letter of credit acceptable to the County, in the amount of the decommissioning fund naming Gilliam County and the landowner as beneficiary or payee.
 - (1) The calculation of present-year dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator as published by the U.S. Department of Commerce, Bureau of Economic Analysis, or any successor agency (the "Index"). The amount of the bond or letter of credit account shall be increased at such time when the cumulative percentage increase in the Index exceeds 10 percent from the last change, and then the amount shall be increased by the cumulative percentage increase. If at any

time the Index is no longer published, Gilliam County and the applicant shall select a comparable calculation of present-year dollars. The amount of the bond or letter of credit account shall be prorated within the year to the date of decommissioning.

- (2) The decommissioning fund shall not be subject to revocation or reduction before decommissioning of the Wind Power Generation Facility.
 - (3) The facility owner/operator shall describe the status of the decommissioning fund in the annual report submitted to Gilliam County.
 - f. If any disputes arise between Gilliam County and the landowner on the expenditure of any proceeds from the bond or the letter of credit, either party may request nonbonding arbitration. Each party shall appoint an arbitrator, with the two arbitrators choosing a third. The arbitration shall proceed according to the Oregon statutes governing arbitration. The cost of the arbitration (excluding attorney fees) shall be shared equally by the parties.
 - g. For projects sited by EFSC, compliance with EFSC's financial assurance and decommissioning standards shall be deemed to be in compliance with the dismantling and decommissioning requirements of this Section 152.524.
6. Wind Power Generation Facility Siting Subsequent Requirements
- a. A bond or letter of credit shall be established for the dismantling of uncompleted construction and/or decommissioning of the facility. (See §152.524.) For projects being sited by the State of Oregon's Energy Facility Siting Council (EFSC), the bond or letter of credit required by EFSC will be deemed to meet this requirement.
 - b. The actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines, and transmission lines shall be provided to Gilliam County once commercial electrical production begins.
 - c. A summary of as-built changes in the facility from the original plan, if any, shall be provided by the owner/operator.
 - (1) The Wind Power Generation Facility requirements shall be facility-specific, but can be amended as long as the facility does not exceed the boundaries of the Gilliam County Conditional Use Permit where the original facility was constructed.
 - (2) An amendment to the conditional use permit shall be required if proposed facility changes would:
 - (a) Increase the land area taken out of agricultural production by an additional 20 acres or more;
 - (b) Increase the land area taken out of agricultural production sufficiently to trigger taking a Goal 3 exception;
 - (c) Require an expansion of the established facility boundaries;

- (d) Increase the number of towers;
- (e) 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.

No amendment would be required if an expansion of power-generating capacity is due to technology upgrades installed within the existing boundaries of the established Wind Power Generation Facility. Notification by the facility owner/operator to the Gilliam County Planning Department of nonsignificant changes is encouraged, but not required. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by EFSC.

- e. Within 120 days after the end of each calendar year, the facility owner/operator shall provide Gilliam County an annual report including the following information:
 - (1) Energy production by month and year.
 - (2) Nonproprietary information about wind conditions (e.g., monthly averages, high wind events, bursts).
 - (3) A summary of changes to the facility that do not require facility requirement amendments.
 - (4) A summary of the avian monitoring program – bird injuries, casualties, positive impacts on area wildlife and any recommendations for changes in the monitoring program.
 - (5) Employment impacts to the community and Gilliam County during and after construction.
 - (6) Success or failures of weed control practices.
 - (7) Status of the decommissioning fund.
 - (8) Summary comments – any problems with the projects, any adjustments needed, or any suggestions.

The annual report requirement may be discontinued or required at a less frequent schedule by the County. The reporting requirement and/or reporting schedule shall be reviewed, and possibly altered, at the request of the facility owner/operator. (OPTION: For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.)

U. Small Wind Energy Systems (SWES)

A. Definitions

- (1) Meteorological tower (met tower) Defined to include the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes. Booms to hold equipment, anemometers, and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- (2) Rotor Diameter Defined as the cross sectional dimension of the circle swept by the rotating blades.
- (3) Small Wind Energy System (SWES) Defined as a single towered wind energy system that:
 - a. Is used to generate electricity
 - b. Has a rated nameplate capacity of 10 Kilowatts or less; and
 - c. Has a total height of 150 feet or less.
- (4) Total Height Defined as the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- (5) Wind energy system defined as the equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, guy wire, or other component used in the system.
- (6) Wind Energy System Owner defined as the individual that owns, or intends to own, the property upon which he/she will operate a SWES in accordance with this section.
- (7) Wind Generator defined as the blades and associated mechanical and electrical conversion components mounted on the tower.
- (8) Wind Tower defined as the monopole; a freestanding or guyed structure that supports a wind generator.

B. Applicability

In order to properly integrate all regulations as defined in section a. and to regulate such systems in an orderly and comprehensive manner, it is hereby provided that SWES are subject to the regulation set forth in this Section. The purpose of this Section is to oversee the permitting of SWES and to preserve and protect public health and safety and surrounding agriculture lands without significantly increasing the cost or decreasing the efficiency of a SWES. These provisions shall apply to all SWES located in Gilliam County.

C. Standards

- (1) Setbacks: A wind tower for a SWES shall be set back a distance equal to its total height plus an additional 250 feet from:
 - a. Any State, County or Federal right-of-way or the nearest edge of a State, County, or Federal roadway, whichever is closer;
 - b. Any right of ingress or egress on the owner's property;
 - c. Any overhead utility lines;
 - d. All property lines; and
 - e. Any existing guy wire, anchor, or small wind energy tower on the property.

- (2) Access
 - a. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - b. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.
- (3) Electrical Wires

All electrical wires associated with a SWES other than wires necessary to connect the wind generator to the wind tower wiring, the wind tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- (4) Lighting

A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Lighting of other parts of the SWES, such as appurtenant structures, shall be limited to that required for safety purposes, and shall be reasonably shielded from abutting properties.
- (5) Appearance, color and finish

The wind generator and wind tower shall remain painted or finished in the color finish that was originally applied by the manufacture.
- (6) Signs

All signs; other than the manufacture's, installer's identification, appropriate warning signs, or owner identification of a wind generator, wind tower, building, or other structure associated with a SWES visible from any public road shall be prohibited.
- (7) Code Compliance

A SWES including tower shall comply with all applicable construction and electrical codes.
- (8) Utility Notification and Interconnection

SWES that connect to the electric utility shall comply with the utilities regulations.
- (9) Attachments

SWES shall not be attached to any building, including guy wires.
- (10) Met Towers

Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedure as a SWES.
- (11) Number of SWES

Each property is eligible for two SWES only. (Reason to limit to two SWES is the intent is for personal use, not to generate power for sale for profit –If a personal SWES does generate power for a farm, home, etc, and excess is sold that's ok.)

D. Abandonment

- (1) A SWES that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Planning Director may issue a Notice of Abandonment to the owner of a SWES that is deemed to have been abandoned. The owner shall have the right to respond in writing to the Notice of Abandonment setting forth the reasons for operational difficulty and providing a reasonable timetable for corrective action within 30 days from the date of the notice. The Planning Director shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the SWES has not been abandoned.

(2) If the SWES is determined to be abandoned, the owner of a SWES shall remove the wind generator from the wind tower at the owner's sole expense within 3 months of the date of Notice of Abandonment. If the owner fails to remove the wind generator from the wind tower, the Planning Director may pursue legal action to have the wind generator removed at the owner's expense.

E. Connection to Power Grid

Any property owner seeking to construct a SWES and connect such system to the main power grid with the capability of transporting energy back to the main power company shall provide notice to the Planning Director of the power company's commitment to receive the power.

F. Variances

Variances to the minimum distances restrictions and standards contained in this section are not permitted.

G. Violations

It is unlawful for any person to construct, install, or operate a SWES that is not in compliance with this Section or with a condition contained in a conditional use permit issued pursuant to this Section.

h. Approval procedure

A SWES shall be processed as a Type I conditional use as set forth in Section 7.030.