

ARTICLE 52.00
COMMERCIAL WIND POWER GENERATION FACILITY
SITING REQUIREMENTS

Section 52.01 Purpose

Union County recognizes valuable wind power resources are in rural areas; and that development of these resources will provide jobs, will expand the local tax base and will keep energy dollars in the local area. Therefore, the purpose of this ordinance is to clarify existing rules governing the siting and development of wind generators with the intention to encourage wind power renewable energy resource development.

Section 52.02 Definitions

- (1) Commercial Wind Power Generation. An activity carried out using one or more wind turbine generators operated as a single Commercial Wind Power Generation Facility that has a combined generating capacity greater than 3 MW.
- (2) Commercial Wind Power Generation Facility. Commercial Wind Power Generation 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: (a) Connected to a common switching station, or (b) Constructed, maintained, or operated as a contiguous group of devices.

Section 52.03 Commercial Wind Power Generation Facility Review Process

- (1) The procedure for taking action on the siting of a Commercial Wind Power Generation Facility is a request for a conditional use. A public hearing pursuant to Article 21.00 shall be held to determine if the applicant meets the siting requirements for a Commercial Wind Power Generation Facility.
- (2) The requirement for a hearing will not apply to proposed facilities for which Oregon Energy Facility Siting Council (EFSC) is making the land use decision and a wind power generation facility that is smaller

than Commercial Wind Power Generation defined in Section 52.02(1).

Section 52.04 Application

- (1) The following information shall be provided as part of the application:
 - (A) A general description of the proposed Commercial 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 Commercial Wind Power Generation Facility, including a map showing the location of components.
 - (B) Identification of potential conflicts, if any, with:
 - (1) Accepted farming practices as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm uses;
 - (2) Other resource operations and practices on adjacent lands except for wind power generation facilities on such adjacent lands; and
 - (3) Accepted farm or forest practices on surrounding resource land, including the nature and the extent of the impact of the proposed facility on the cost of such practices.
 - (C) Transportation Plan. A Transportation Plan, with proposed recommendations, if any, reflecting the guidelines provided in Union County's Transportation System Plan (TSP). The Plan shall include transportation impacts from the proposed Commercial Wind Power Generation Facility on the local and regional road system during and after construction, after consultation with Union County Public Works Director. The plan will designate the size, number, location and nature of vehicle access points.
 - (D) Avian Plan. The avian 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.

- (E) Covenant Not to Sue. A Covenant Not to Sue with regard to generally accepted farming practices 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 or for generally accepted farming practices.
- (F) Fire Protection & Emergency Response Plan. 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 and address the fire siting standards in the applicable zone.
- (G) Erosion Control Plan. An erosion control plan, developed in consultation with the Union County Planning Department 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.
- (H) Weed Control Plan. A weed control plan addressing prevention and control of all Union County identified noxious weeds directly resulting from the Wind Power Generation Facility during preparation, construction, operation and demolition/rehabilitation.
- (I) Socioeconomic Impact Assessment. A socioeconomic impact assessment of the Commercial 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 and/or individuals. These effects can be viewed as either positive or negative. In order to maximize potential benefits and to mitigate outcomes that are viewed as problematic, decision-makers need information about the socioeconomic impacts that are likely to occur.
- (J) If the Commercial Wind Power Generation Facility exceeds 12 acres on high value cropland and 20 acres

on other lands, a Goal 3 or Goal 4 exception is required per OAR 660-033-0130 (22).

- (K) Information pertaining to the Commercial Wind Power Generation Facility impacts on:
 - (1) Wetlands;
 - (2) Wildlife (all potential species of reasonable concern);
 - (3) Wildlife Habitat;
 - (4) Criminal Activity (vandalism, theft, trespass, etc.) and proposed actions, if any to avoid, minimize or mitigate negative impacts.

- (L) Decommissioning Plan. A decommissioning plan including all components of the Commercial Wind Power Generation Facility prepared by the applicant and approved by the landowner(s).

Section 52.05 Application Review Requirements

- (1) Union County may impose clear and objective conditions in accordance with the County Land Use Plan; County Zoning, Partition & Subdivision Ordinance; and state law which Union County considers necessary to protect the best interests of the surrounding area, or Union County as a whole.

- (2) Prior to commencement of any construction, all other necessary permits shall be obtained, e.g. building permit, rural address, road access and other permits from the Union County Public Works Department, and/or from the Oregon Department of Transportation.

- (3) The following requirements and restrictions apply to the siting of a Commercial Wind Power Generation Facility:
 - (A) The Commercial Wind Power Generation Facility shall be on property zoned A-1, A-2, A-3 & A-4 and no portion of the facility shall be within 1500 feet of properties zoned residential use or designated on the Land Use Plan as residential. (For clarification purposes of this section, A-1, A-2, A-3 & A-4 zones are not considered zoned for residential use.)

 - (B) Reasonable efforts shall be made to blend the wind facility's towers with the natural surrounding in

order to minimize impacts upon open space and the natural landscape.

- (C) Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- (D) The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.
- (E) The turbine towers shall be designed to help reduce noise or other detrimental effects.
- (F) Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of 4 feet; shallower depths may be authorized where notification and safety measures are taken, elsewhere the cable collector system shall be installed to prevent adverse impacts on agriculture operations.
- (G) Required permanent maintenance/operations buildings shall be located off-site in one of Union County's appropriately zoned areas, except that such a building may be constructed on-site if (1) the building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers, and (2) the building will be removed or converted to farm use upon decommissioning of the Commercial Wind Power Generation Facility.
- (H) A Commercial 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).
- (4) To the extent feasible, the county will accept information presented by an application for EFSC proceeding in the form and on the schedule required by EFSC.

Section 52.06 Amendments

- (1) The Commercial 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 Union 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 12 or 20 acres whichever is applicable;
 - (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. Notification by the facility owner/operator to the Union County Planning Department of changes not requiring an amendment are encouraged, but not required. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendment established by EFSC.

Section 52.07 Annual Review

- (1) Within 120 days after the end of each calendar year the facility owner/operator shall provide Union County an annual report including the following information:
 - (A) Energy production by month and year where required by state reporting requirements.
 - (B) Non-proprietary information about wind conditions. (e.g. monthly averages, high wind events, bursts)
 - (C) A summary of changes to the facility that do not require facility requirement amendments.
 - (D) A summary of the avian monitoring program- bird injuries, casualties, positive impacts on area

wildlife and any recommendations for changes in the monitoring program.

- (E) Direct employment statistics from the project in Union County during and after construction.
 - (F) Success or failures of weed control practices.
 - (G) Summary comments- any problems with the projects, any adjustments needed, or any suggestions.
- (2) 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. For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

