ARTICLE 7 CONDITIONAL USES

SECTION 7.010 – AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES

A conditional use listed in this ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this ordinance and this article by action of the Planning Commission or Planning Director. In the case of a use existing prior to the effective date of this ordinance, and classified in this ordinance as a Conditional Use, a change in use or in lot area or an alteration of a Conditional Use, a change in use or in lot area or an alteration of structure shall conform with the requirements for a Conditional Use.

A. GENERAL APPROVAL CRITERIA AND CONDITIONS

1. In addition to criteria, standards and conditions that may be set forth in a specific Zone, this Article, or other regulations applicable to a specific Conditional Use shall not be approved or permitted unless the following criteria are met. A Conditional Use may be approved on the Condition or Conditions that the applicant obtain and maintain compliance with other permits and approvals required.

a. The proposed use shall be in compliance with the applicable Comprehensive Plan designation and policies.

b. As applicable, sewage and/or solid waste disposal methods shall be provided in compliance with applicable local, State and Federal regulations.

c. Proposal shall be found to be in compliance or conditioned upon compliance with applicable air and noise pollution standards.

d. Required access shall be legally established, available, and adequate to serve the proposed use or provisions to provide such evident.

e. Public services deemed necessary shall be available or provisions for such provided and no use shall be approved which is found to exceed the carrying capacities of affected public services unless there are provisions to bring such capacities up to the need.

f. Proposal shall be in compliance with the applicable standards and limitations of the primary and combining zone as may be applicable.

g. No use shall be approved which is found to have a significant adverse impact on resource-carrying capacities unless there are provisions for mitigating such impact.

h. No use shall be approved which is found to exceed the carrying capacities of affected public services and facilities.

i. All required State and Federal permits or approvals have been obtained or will be as a condition of approval.

2. In addition to specific standards and/or conditions set forth by the applicable zone, this article or some other applicable regulations, other conditions may be imposed that are determined necessary to avoid a detrimental impact, and to otherwise protect the best interests of the
surrounding area and the County as a whole. Such conditions may include, but are not limited to, the following:

a. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

b. Establishing a special setback or other open space or lot area or dimension.

c. Limiting the height, size or location of a building or other structure.

d. Designating the size, number, improvements, location and nature of vehicle access points and parking or loading areas.

e. Limiting or otherwise designating the number, size, location, height, and lighting of signs and outdoor lighting.

f. Requiring diking, screening, fencing, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

g. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

h. Limiting the term of the Conditional Use Permit to a specific time.

i. Requiring necessary on-site or off-site improvements and maintenance.

j. Requiring the holder of a Conditional Use Permit to obtain review, renewal, or reapplication approval of the permit in the event that there is an increase in impact from the use on public facilities beyond that which was projected at the time of initial approval.

3. The County may terminate a permit in the event that:

a. The holder of a Conditional Use Permit, or its parent corporation or any partially or wholly owned subsidiary thereof, subsidiary or joint venture fails to meet Federal, State and/or local regulations for any facility under County jurisdiction.

b. The applicant or holder of a Conditional Use Permit, or its parent corporation, or any partially or wholly owned subsidiary thereof, subsidiary or joint venture, fails to provide or maintain adequate public facilities.

4. Procedures for Reviewing/Altering Conditional Use Permits:

a. Planning Director provides notice of permit review as required by original Conditional Use Permit.

b. Planning Director schedule a pre-review meeting with permit Holder

c. Planning Director prepares staff report and may prepare recommendation upon request of Planning Commission if applicable
d. If applicable, schedule Public Hearing with Planning Commission. At hearing receive public input in accordance with County Hearings Ordinance

e. Planning Commission continue hearing to review testimony and permit if necessary

f. Planning Commission makes one of the following decisions:

   (1) Renews Permit as is

   (2) Renews Permit with alterations

   (3) Renews Permit conditioned on approval by the Gilliam County Court of any contractual changes required

   (4) Deny renewal of permit.

5. **Information to be relied upon in making decision:**

   a. Testimony from the public

   b. Reports from applicable State and Federal Agencies and those specifically identified by the Planning Director

   c. Reports from Cities in County if applicable

   d. Reports from Citizen Advisory Committee if applicable

   e. Information provided by applicant in the application
SECTION 7.020 – STANDARDS GOVERNING CONDITIONAL USES

In addition to the standards of the zone in which the conditional use is located and the general standards of this ordinance, conditional uses shall meet the following standards:

A. CONDITIONAL USES, GENERALLY

1. **Setback.** Requirements are addressed in each individual zone.

B. CHURCH, HOSPITAL, NURSING HOME, CONVALESCENT HOME, RETIREMENT HOME.

A church, hospital, nursing home, convalescent home, or retirement home may be authorized as a conditional use after consideration of the following factors: sufficient area provided for the building, required yards, and off-street parking (related structures and uses such as a manse, parochial school, or parish house are considered separate principal uses with additional lot area required); location of the site relative to the service area of the church, hospital, or home; probable growth and growth needs; site location relative to land uses in the vicinity; and adequacy of access from principal streets together with the probable effect on traffic volumes of abutting and nearby streets. A church, hospital, nursing home, convalescent home, retirement home, or related building shall be at least 30 feet from a side or rear lot line.

C. SCHOOLS

1. **Nursery schools** shall provide and maintain at least 100 square feet of outdoor play area per child. A sight-obscuring fence at least four feet but not more than six feet high shall separate the play area from abutting lots and from a street.

2. **Elementary schools** shall provide a basic site area of five acres plus one additional acre for each 1,100 pupils of predicted ultimate enrollment.

3. **Secondary schools** shall provide a basic site area of 10 acres plus one additional acre for each 100 pupils of predicted ultimate enrollment.

D. RADIO, TELEVISION TOWER, UTILITY STATION, OR SUBSTATION

1. In a residential zone, all equipment storage on the site shall be within an enclosed building.

2. The use shall be fenced and provided with landscaping.

3. The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent property.

4. As far as possible, transmission towers, poles, overhead wires, pumping stations, and similar gear shall be so located, designed, and installed as to minimize their conflict with scenic values.

E. MANUFACTURED HOME PARK.

A manufactured home park may be permitted as a conditional use provided it meets the requirements of Chapter 446, Oregon Revised Statutes, and the Rules and Regulations.
Governing the Construction and Sanitary Operation of Travelers’ Accommodations and Trailer Parks adopted by the Oregon State Board of Health. In addition, the following minimum standards shall apply:

1. **Parking Space Requirement.** A parking space shall be provided for each manufactured home space on the site. In addition, guest parking spaces shall also be provided in every manufactured home park within 200 feet of the manufactured home spaces served and at a ratio of one parking space for each two manufactured home spaces. Parking spaces shall have durable and dustless surfaces adequately maintained for all-weather use and shall be properly drained.

**F. COMMERCIAL AMUSEMENT ESTABLISHMENT.**

A commercial amusement establishment may be authorized after consideration of the following factors:

1. Adequacy of access from principal streets together with the probable effect on traffic volumes of abutting and nearby streets.
2. Adequacy of off-street parking.
3. Adequacy of building and site design provisions to maintain a reasonable minimum of noise and glare from the building and site.

**G. MINING, QUARRYING, OR OTHER EXTRACTION ACTIVITY.**

A proposal for mining, quarrying or other extraction shall not be approved unless the following standards are met:

1. Plans and specifications submitted to the County for approval must contain sufficient information to allow the Planning Commission to consider and set standards pertaining to the following:
   a. Public pedestrian and vehicular access to the facility will be limited
   b. The approval of any State or Federal agency having jurisdiction has been or will be obtained
   c. Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as this is practicable, noise, vibration or dust which is injurious to persons or other uses in the vicinity.

**H. AUTOMOBILE WRECKING YARD**

In considering a conditional use application for an automobile wrecking yard, the Planning Commission shall require that it be enclosed by a sight-obscuring fence not less than six (6) feet high.

**I. LIVESTOCK FEED YARD, LIVESTOCK SALES YARD**

1. In considering a conditional use application for a livestock feed yard, the Planning Commission shall require:
a. That the feed yard be located no closer than 1,000 feet to a lot or parcel in an Recreational Residential (RR), Rural Residential Zone (R-R 10) or any lot or parcel zoned residential

b. That the feed yard be located no closer than 1,000 feet to a principal highway or major County road as shown on the comprehensive plan

c. That provisions have been made for adequate drainage and pest control.

2. In addition to any other requirements of this ordinance, the Planning Commission may consider and impose such other requirements as it deems necessary to the health, safety, and welfare of the citizens of the county, including location of the feed lot with respect to prevailing wind patterns and other existing or potential development, and limitation of the number of animals to be kept on the premises.

J. **HOME OCCUPATIONS.**

When permitted as a Conditional Use and conducted as an accessory use shall be subject to the following limitations as set forth by ORS 215.488:

1. Will be operated by a resident of the property on which the business is located;

2. Will employ no more than five full- or part-time persons;

3. Will be operated in:
   a. A dwelling; or
   b. Other buildings normally associated with uses permitted in the zone in which the property is located.

4. Will not interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.

5. Nothing in this subsection authorizes the construction of any structure that would not otherwise be allowed in the zone in which the home occupation is to be established.

6. The existence of home occupations shall not be used as justification for a zone change.

7. The County shall review a permit allowing a home occupation under this subsection every 12 months following the date the permit was issued and may continue the permit if the home occupation continues to comply with the requirements of this section.

K. **SOLID WASTE DISPOSAL FACILITY**

When permitted as a Conditional Use, such a facility shall meet the following standards:

1. The facility shall have sufficient screening and buffer area between the disposal site and adjacent property considering the size and location of the facility;
2. The facility must not interfere materially with “accepted farming practices” as defined in ORS 215.203(2)(c) on adjacent lands devoted to farm use;

3. The facility shall be conditioned upon the applicant obtaining a solid waste disposal permit from the Oregon Department of Environmental Quality and compliance with the conditions of that permit, and with permit and requirements of any other regulating agency.

L. **RECREATION VEHICLE PARK.**

1. A recreation vehicle park shall be built to State standards in effect at the time of construction, and any additional conditions set forth in the Commission’s approval prior to occupancy.

2. **Temporary Workforce Housing.** Utility facilities necessary for public service and power generation facilities may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to OAR 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

M. **FARM PARCEL LESS THAN 160 ACRES.**

May only be approved if found to comply with the following criteria: Constitutes a Commercial Agricultural Enterprises consisting of a farm operation which will:

1. Will be appropriate for the continuation of existing commercial agricultural enterprises in the area;

2. Will contribute in a substantial way to the existing agricultural economy; and

3. Will help maintain or establish new agricultural processors and established or new farm markets.

4. In the review of such divisions of land less than 100 acres, the following factors shall be addressed in the development of the required findings:

   a. Farm management plan as applicable;

   b. That the proposed parcel size is consistent with Commercial Agricultural activity in the area and the proposed parcel is equal to the median farm size within two square miles of the subject property;

   c. The proposed parcel is of sufficient size and capable of producing the types of crops grown in the area at commercial levels of production, taking into account typical yields of such crops and the marketability thereof commercially;

   d. That the NRCS soils data regarding soil type, suitability, irrigation needs and availability, and other related factors are sufficient to support the conclusion that the parcel is capable of producing at commercial levels.
N. **ESTABLISHMENT OF A NONFARM DWELLING OR PARCEL IN AN EFU ZONE QUALIFIED.**

Final approval for an application for the establishment of a nonfarm dwelling on land in an Exclusive Farm Use (EFU) Zone or other zone qualifying as such a zone that is valued at true cash value for farm use under ORS 308.370 shall not be given prior to the County receiving evidence that the subject lot or parcel has been disqualified for valuation at true cash value for farm use as required by ORS 215.236.

O. **MANUFACTURED HOME AUTHORIZED AS A TEMPORARY RESIDENCE FOR CARE OF A RELATIVE IN CONJUNCTION WITH EXISTING RESIDENTIAL USE**

1. **As a temporary use in every zone,** the County may, as a Type II Conditional Use, allow one accessory manufactured home dwelling providing that no additions to the manufactured home shall be permitted in conjunction with a primary dwelling with the following findings:

   a. That an accessory dwelling is necessary to care for or provide custody of an elderly, mentally handicapped, or infirm relative whom a medical doctor certifies is in need of this kind of care or custody.

   b. Residential utilities and facilities can be provided. Septic feasibility is required prior to approval.

2. A **temporary use permit** granted under this section is void when the elderly, handicapped, or infirm relative whom the subject of the permit moves to another residence, or is absent from the residence for more than 120 days or leaves the residence with no likelihood of returning. Exception to the 120-day limit can be provided for because of extraordinary circumstances such as extended hospitalization.

3. **Within 30 days of the permit becoming void or revoked,** the accessory manufactured home dwelling shall be removed by the owner of the real property unless otherwise approved by the Commission.

4. **The County or designated representative thereof may review permits** issued under this section at any time and may revoke the permits when they are found to be not in compliance.

5. Any accessory manufactured home dwelling placed under a permit authorized by this section must be located as close as possible to the primary dwelling.

P. **MANUFACTURED HOME AUTHORIZED AS A TEMPORARY RESIDENCE ON AN INDIVIDUAL LOT.**

A manufactured home may be authorized as a temporary residence as a Type I Conditional Use Permit on an individual lot and shall comply with the following additional provisions:

1. The manufactured home shall be occupied by the owner of the lot on which the manufactured home is located.

2. A manufactured home shall be placed upon a lot for which a building permit for a housing unit has been obtained.
3. The manufactured home shall be occupied only during a period in which satisfactory progress is being made toward the completion of the housing unit on the same site.

4. Electric, water and sewer utility connections shall be made to the manufactured home.

5. The owner of the lot agrees to remove the manufactured home from the lot not later than eighteen months from the date on which the building permit for the housing unit is issued or not later than two months following the completion of the housing unit, whichever occurs first.

6. The Commission or designated representative thereof may review permits issued under this section at any time and may revoke the permits when they are found to be not in compliance.

7. Any accessory manufactured home dwelling placed under a permit authorized by this section must be located as close as possible to the primary dwelling under construction. Unless there are physical limitations of the land, this should be within 100 feet of said dwelling.

8. In lieu of requirements (Paragraphs 1, 2, 3, and 5 above), a manufactured home may be authorized as a temporary residence on an individual lot for the purpose of residency for an employee on a temporary construction or other job; such occupancy shall not exceed six months in any calendar year.

Q. **CONDITIONAL USES IN EXCLUSIVE FARM USE ZONES**

1. A Type I or Type II Conditional Use in an Exclusive Farm Use Zone may be approved only when the Planning Director or Hearings body finds that the use will not:

   a. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

   b. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

2. An applicant for a conditional use in the Exclusive Farm Use Zone may demonstrate that the standards for approval set forth in Subsection A of this section will be satisfied through the imposition of conditions. Any condition so imposed shall be clear and objective.

R. **USE OF EXISTING SOLID WASTE RAIL UNLOADING FACILITY FOR HAZARDOUS WASTE.**

When permitted as a Conditional Use, such a use shall meet the following standards:

1. The facility shall not be used to store waste defined as hazardous waste under 40 CFR Part 261 or OAR Chapter 340, Division 101, for a period of more than ten (10) days.

2. The facility shall have sufficient screening and buffer area between the facility and adjacent property considering the size and location of the facility.

3. The facility must not interfere materially with “accepted farming practices” as defined in ORS 215.203(2)(c) on adjacent land devoted to farm uses.
4. The facility shall unload, load, store and transport solid, hazardous and other waste in the manner required by Federal and State law. (Adopted May 4, 1994)

S. TRANSPORTATION IMPROVEMENTS

1. Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are:

   a. Not improvements designated in the Transportation System Plan; or

   b. Not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and the following standards:

      (1) The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.

      (2) The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife, air and water quality, cultural resources, and scenic qualities.

      (3) The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.

      (4) The project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.

2. If review under this section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for an amendment shall be undertaken prior to or in conjunction with the conditional permit review. (Adopted April 14, 1999)

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 rather 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. Requirements under the Energy Facility Siting Council.
If a holder of a Site Certificate issued by the Oregon Energy Facility Siting Council requests a conditional use permit for an energy facility as outlined under ORS 469.401(3) and pays the requisite fee, the Planning Director shall issue such conditional use permit. The conditional use permit shall incorporate only the standards and conditions in Gilliam County’s land use and other ordinances as contained in the site certificate. Issuance of the Conditional Use Permit shall be done promptly, not taking more than four weeks once it has been determined that a valid Site Certificate has been issued, the applicant has submitted a complete application and the fee has been received.

5. 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 Roadmaster. 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.

If there are no interested residents that are willing to serve on the TAC, this portion of the requirement may be waived. 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 Road 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 6. of this section.

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 Road Department, and from the Oregon Department of Transportation.

d. The following setback requirements and restrictions apply to the siting of a facility:

   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 at a minimum, 110% of maximum total turbine height from blade tip height, measured from the centerline of the turbine tower from:

   (1) Any State, County or Federal right-of-way or the nearest edge of a State, County or Federal roadway, whichever is closer;

   (2) Any right of ingress or egress on the owner’s property;

   (3) Any overhead utility lines;

   (4) All property lines; if adjacent landowner agrees in writing to a lesser distance, this requirement may be waived.

   (5) Any existing guy wire, anchor, or small wind energy tower on the property.
(6) Any residence including those outside the project boundary. If a landowner agrees in writing to a lesser distance, this requirement may be waived.

(7) A minimum of 150% of the maximum total turbine height from blade tip height, measured from the centerline of the turbine tower, from federal transmission line. If affected parties agree in writing to a lesser distance, this requirement may be waived.

e. 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.

f. Reasonable efforts shall be taken to protect and to preserve existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

g. The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.

h. The turbine towers shall be of a size and design to help reduce noise or other detrimental effects.

i. Private access roads shall be gated to protect the facility and property owners from illegal or unwarranted trespass, and illegal dumping and hunting.

j. 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.

k. 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:

(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 Wind Power Generation Facility consistent with the provisions of this section.

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

6. Decommissioning/Dismantling Process. The applicant’s dismantling of incomplete construction and/or decommissioning plan for the Wind Power Generation Facility shall be completed and filed with the Planning Department prior to construction and 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 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.

7. 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. 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 State plane 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 non-significant 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.

d. 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.

9. For facilities under EFSC jurisdiction and for which an annual report is required, the annual report to EFSC satisfies this requirement.

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.

U. SMALL WIND ENERGY SYSTEMS (SWES)

1. Definitions:

a. 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.

b. **Rotor Diameter** Defined as the cross sectional dimension of the circle swept by the rotating blades.

c. **Small Wind Energy System (SWES)** Defined as a single towered wind energy system that:

   (1) Is used to generate electricity
   
   (2) Has a rated nameplate capacity of 10 Kilowatts or less; and
   
   (3) Has a total height of 150 feet or less.

d. **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.

e. **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.

f. **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.

g. **Wind Generator** defined as the blades and associated mechanical and electrical conversion components mounted on the tower.

h. **Wind Tower** defined as the monopole; a freestanding or guyed structure that supports a wind generator.

2. **Applicability**

   In order to properly integrate all regulations as defined in section 1. 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.

3. **Standards**

   a. **Setbacks**: A wind tower for a SWES shall be set back a minimum of 110% of maximum total turbine height from blade tip height, measured from the centerline of the turbine tower:

      (1) Any State, County or Federal right-of-way or the nearest edge of a State, County, or Federal roadway, whichever is closer;

      (2) Any right of ingress or egress on the owner’s property;
(3) Any overhead utility lines;

(4) All property lines; and

(5) Any existing guy wire, anchor, or small wind energy tower on the property.

4. 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.

5. 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.

6. 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 purposed, and shall be reasonably shielded from abutting properties.

7. 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.

8. 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.

9. Code Compliance

   A SWES including tower shall comply with all applicable construction and electrical codes.

10. Utility Notification and Interconnection

    SWES that connect to the electric utility shall comply with the utilities regulations.

11. Attachments

    SWES shall not be attached to any building, including guy wires.
12. Met Towers

Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedure as a SWES.

13. 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 is acceptable)

14. Abandonment

a. 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.

b. 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.

15. 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.

16. Variances

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

17. 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.

18. Approval procedure

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

1. Application Requirements. An application for a wireless telecommunications facility shall comply with the following meeting, notice and submittal requirements:

   a. Pre-application Conference. The applicant shall attend a scheduled pre-application conference prior to submission of a land use application. An application for a wireless telecommunications facility permit will not be deemed complete until the applicant has had a pre-application conference with the Planning Department staff.

   b. Submittal Requirements. An application for a conditional use permit for a wireless telecommunications facility shall include:

      (1) A copy of the blank lease form.

      (2) A copy of the applicant’s Federal Communications Commission license.

      (3) A map that shows the applicant’s search ring for the proposed site and the properties within the search ring, including locations of existing telecommunications towers or monopoles.

      (4) A site plan showing the location of the proposed facility and its components. The site plan shall also identify the location of existing and proposed landscaping, and any equipment shelter, utility connections, and any fencing proposed to enclose the facility.

      (5) A copy of the design specifications including proposed colors and elevation of an antenna array proposed with the facility.

      (6) An elevation drawing of the facility and a photographic simulation of the facility showing how it would fit into the landscape.

      (7) A copy of a letter of determination from the Federal Aviation Administration (FAA) or the Oregon Department of Aviation (ODA) whether or not aviation lighting would be required for the proposed facility.

2. Approval Criteria. An application for a wireless telecommunications facility will be approved upon findings that:

   a. The facility will not be located on irrigated land.

   b. The applicant has considered other sites in its search area that would have less visual impact as viewed from nearby residences than the site proposed and has determined that any less intrusive sites are either unavailable or do not provide the communications coverage necessary. To meet this criterion, the applicant must demonstrate that it has made a good faith effort to co-locate its antenna on existing monopoles in the area to be served. The applicant can demonstrate this by submitting a statement from a qualified engineer that indicates whether the necessary service can or cannot be provided by co-location within the area to be served.

   c. The facility is sited using trees, vegetation, and topography to the maximum extent practicable to screen the facility from view of nearby residents.
d. The applicant shall site the facility in a manner to minimize its impact on scenic views and shall site the facility using trees, vegetation and topography in order to screen it to the maximum extent practicable from view from protected roadways. Towers or monopoles shall not be sited in locations where there is no vegetative, structural or topographic screening available approved by the Planning Commission.

e. Required aviation lighting is shielded to the maximum extent allowed by FAA and/or ODA.

f. The form of lease for the site does not prevent the possibility of co-location of additional wireless telecommunication facilities at the site.

g. Any tower or monopole shall be designed in a manner that it can carry the antennas of at least one additional wireless carrier. This criterion may be satisfied by submitting that statement of a licensed structural engineer licensed in Oregon that the monopole or tower has been designed with sufficient strength to carry such an additional antenna array and by elevation drawings of the proposed tower or monopole that identifies an area designed to provide the required spacing between antenna arrays of different carriers.

h. An approval of a wireless telecommunication facility shall include a condition that if the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year the facility shall be removed by the landowner, or as set forth in the lease between the landowner and the applicant.

W. MARIJUANA BUSINESESS

For standards and approval criteria specific to marijuana businesses (production, processing and retail) see Article 8. Marijuana businesses are still subject to the other sections of this Article.
SECTION 7.030 – CONDITIONAL USE PROCESSING, TYPE I

A. The Planning Director shall, within five (5) days of the receipt of a complete application for a Type I conditional use, provide individual written notice of such applications as required by Section 11.140 of this ordinance.

1. Provide for a minimum of ten (10) days for all such persons, parties, and owners to respond relative to the subject application;

2. Explain the nature of the application and the proposed use or uses which could be authorized;

3. List the applicable criteria from the ordinance and the plan that apply to the application at issue;

4. Include the name of a local government representative contact and the telephone number where additional information may be obtained;

5. State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.

B. If no objection is received within the response period, the Planning Director may take action on the subject application for approval, approval with amendments or conditions, denial, or referral to the Planning Commission for public hearing. If one or more objections are received within the response period, the Planning Director may refer the application to the Planning Commission for public hearing.

C. Notwithstanding the provisions of Section 7.030.A-C, the Planning Director, at his or her discretion, may refer review of the application to a Conditional Use, Type II, review pursuant to Section 7.040 of this ordinance.
SECTION 7.040 – CONDITIONAL USE, TYPE II.

An application for Conditional Use, Type II, shall be subject to review pursuant to the public hearing requirements set forth in Ordinance 87-3 and the notice requirements set forth in Section 11.140 of this ordinance.
SECTION 7.050 – TIME LIMIT ON A CONDITIONAL USE PERMIT AND/OR DESIGN REVIEW PLAN

A. Final Approval – Expiration. Unless otherwise approved in the initial approval by the reviewing authority, the authorization and approval of a Conditional Use Permit and/or a Design Review Plan shall be null and void after two years or such other time as may be specified from the date of final approval unless a building permit has been obtained and construction and/or site improvements have commenced, or other evidence of substantial development, compliance, and/or investment is clearly evident. The Planning Commission may grant an extension not to exceed one year.

B. Time Limitation on Transportation-Related Conditional Use Permits. Authorization of a conditional use shall be void after a period specified by the applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.

C. Issuance of a Conditional Use Permit and/or approval of Design Review Plan shall confer no right to the applicant beyond the time period for which it was issued or approved.

D. If the conditions applicable to a Conditional Use Permit and/or a Design Review Plan are not fulfilled within time limits set forth in Subsection (1) of this section in lieu thereof, the Planning Commission may revoke said permit and/or plan approval after giving notice to the applicant, affected property owners, and other “affected” persons or parties, and upon holding a public hearing to make a determination of noncompliance.

E. If a permit approval is revoked for such noncompliance, or if the permit is declared null and void as set forth in Subsection (1) of this Section, renewal of such permit may only be achieved by submittal of a new application, payment of the applicable filing fee, and processing of such application as an original application pursuant to the provisions of this Article. Such application shall be subject to any and all regulations in effect on the date of receipt of a new application.

F. Limitations on Re-filing-No reaplication for an amendment to the text of this ordinance, a zoning map, or a variance, conditional use, or temporary use by a property owner, which has been denied wholly or in part by the Planning Commission or County Court, shall be considered by the Planning Commission within a 6-month period immediately following the denial of such application. However, if in the opinion of the Planning Commission, new evidence or a change in circumstances warrants such reaplication in a lesser time, the Commission may permit a new application
SECTION 7.060 – PERMIT AND IMPROVEMENTS ASSURANCE

The Commission may require an applicant to furnish the County with a performance bond or such other form of assurance that the Commission standards established and the conditions attached in granting a Conditional Use Permit.