

Article 57

WIND GENERATION AND WIRELESS COMMUNICATION TOWERS

SECTION 57.010, PURPOSE: The purpose of this article is to establish wind generation and wireless communication tower (Hereafter referred to as towers) regulations which are intended to:

01. Establish a comprehensive system for the regulation of towers covered by this ordinance.
02. Support the use and placement of towers for business use and electrical power generation.
03. Support the use of towers which are maintained in a safe and attractive condition which do not:
 - A. Create distractions that may jeopardize the public safety.
 - B. Distract from County or neighborhood scenic values.
 - C. Do not adversely impact resource and agricultural uses or wildlife.
04. Allow for the prompt and complete removal of towers and related structures when no longer needed.
05. Protect the public health, safety, and general welfare of Wallowa County citizens.

SECTION 57.015, REVIEW PROCESS: No person shall place, erect, construct, or otherwise maintain any wind towers or wireless communication towers which are not in compliance with the provisions contained in this ordinance.

01. The provisions of this ordinance pertaining to towers shall not apply to the following towers and facilities:
 - A. Wind generation towers for residential or agricultural use which generate less than 50 kw.
 - B. Wind measurement devices less than 200 ft in height. (Temporary Use Permit required)
02. Wireless communication antennae located on existing towers, poles or other

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structures are subject to Administrative Review.

03. New towers not exempt from this ordinance shall be subject to the level of review required by the underlying zone, as shown below. Additionally, any development under the purview of this Article, which may impact a Goal V scenic view or site shall be subject to Public Hearing Review.

ZONE	WIND TOWER	CELL TOWER	TYPE OF REVIEW
R-1	Prohibited	Conditional Use	Public Hearing, 17.020.04
R-2	Prohibited	Conditional Use	Public Hearing, 17.020.04
CR-2	Prohibited	Prohibited	
M-1	Prohibited	Conditional Use	Public Hearing, 17.020.04
R/C	Prohibited	Conditional Use	Public Hearing, 23.020
T/C	Conditional Use	Conditional Use	Public Hearing Review, 27.020.07; 27.020.09, see also 27.020.16
T/G	Conditional Use	Conditional Use	Public Hearing Review, 16.020.07, 16.020.09, see also 16.020.16
EFU	Conditional Use	Conditional Use	Public Hearing Review, 15.020.13, 15.020.14

Additionally, in the Unincorporated Communities:

ZONE	WIND TOWER	CELL TOWER	TYPE OF REVIEW
Imnaha, 45	Prohibited	Prohibited	
Imnaha, 46	Prohibited	Conditional Use	Public Hearing Review, 46.015.06
Minam, 47	Prohibited	Prohibited	
Minam, 48	Prohibited	Prohibited	
Troy, 49	Prohibited	Prohibited	
Troy, 50	Prohibited	Prohibited	
Troy, 51	Prohibited	Prohibited	
Troy, 52	Prohibited	Conditional Use	Public Hearing Review, 52.020.02

Flora, 53	Prohibited	Prohibited	
SWL, 54 R-3	Prohibited	Conditional Use	Public Hearing Review, 54.020.04
SWL, 55 RCR	Prohibited	Conditional Use	Public Hearing Review, 55.020.03
SWL, 56 RP	Prohibited	Conditional Use	Public Hearing Review, 56.020.04

SECTION 57.020, APPLICATION CONTENTS:

An application for the placement of wind generation or communication towers shall include the following:

01. Maps showing physical features and land uses of the project area, both before and after construction of the proposed facility. The applicant must include at least one map that is printed on a standard 8 1/2" x 11" page. The applicant must include large maps or color photographs that show:
 - A. The project area boundaries.
 - B. The location, height and dimensions of all existing and proposed structures and fencing.
 - C. The location, grades and dimensions of all temporary and permanent on-site roads and access roads.
 - D. State and federal resource lands, Goal V areas, and other protected areas in the vicinity of the project site.
 - E. Map(s) showing Existing topography of the site.
 - F. Water bodies, waterways, wetlands and drainage channels.
 - G. The location of and distance to residences and other noise sensitive properties, public or private airports or airstrips, and other uses or structures relevant to the standards or criteria for the facility.
 - H. For a wind energy facility, copies of all existing wildlife studies applicable to the project site.
 - I. For a wind energy facility, a site map showing all proposed turbine locations and strings.
 - J. For wireless communication facilities, the projected coverage area of the proposed site and the location of any existing wireless communication facilities within a 5 mile radius
 - K. For both wireless communication and wind energy facilities, photosimulations of the proposed structures.

02. A list of permits, approvals or other actions related to the proposed facility that the applicant has requested or will request from other public agencies and utilities serving the site and a schedule of when the applicant has applied or

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intends to apply for those actions. In addition:

- A. The applicant must give written notice of the application to each listed agency and utility and provide a copy of the notice to the county.
- B. The applicant must include a summary of the permits, authorizations and other actions the applicant has requested or will request from other public agencies or utilities.

03. A plan showing how construction and maintenance vehicles would access the site.

04. A revegetation plan for restoring areas temporarily disturbed during construction.

05. A drainage and erosion control plan for construction and operation.

06. A fire protection plan for construction and operation of the facility.

07. A plan to protect any endangered or threatened plants, archaeological, historical or cultural sites or artifacts found at the site.

08. A plan to mitigate or minimize harm to birds and bats.

09. A decommissioning plan, including a description of how the site could be restored to a useful, non-hazardous condition upon project termination and the estimated cost of site restoration.

10. An economic benefit analysis showing how Wallowa County will benefit from the proposed project both during construction and operational phases.

SECTION 57.025, REVIEW CRITERIA:

01. General:

- A. No tower shall be permitted within, or a distance equal to or greater than 1.5 times the height of the tower from, any road right-of-way.
- B. All towers and associated structures shall be maintained in operational condition. Documentation from the facility owner providing proof that adequate steps are being taken to re-enter the turbine into production is sufficient to determine that a structure meets the operational condition requirement.

- C. Illumination other than that required by FAA shall be the minimum necessary and be shielded and downward directed so as to not shine onto neighboring parcels or impact scenic resources.
- D. At a minimum, all setbacks and development standards in the underlying zone and applicable overlay zones must be met.
- E. Applications must satisfy any applicable criteria of Article 36, Salmon Habitat Restoration.
- F. Applications must satisfy any applicable criteria of Article 32, Road Design and Article 33, Parking.
- G. Applications must satisfy any applicable criteria of Article 28, Resource Overlay, and Article 44 Wallowa Lake Moraine Goal V Resource Overlay.
- H. For all structures that are more than 200 feet above grade or that exceed airport imaginary surfaces as defined in OAR Chapter 738, Division 70, the proposed facility must comply with the air hazard rules of the Oregon Department of Aviation. The applicant shall verify compliance by written approval from the Department of Aviation.
- I. The applicant has reduced the visual impact of construction and operation of the proposed facility to the extent practical, by methods which may include, but are not limited to, the following:
 - a) Minimizing construction on ridgelines, state or federal scenic areas and unique or significant views and vistas listed in the comprehensive plan.
 - b) Building the facility near the edge of contiguous timber areas or using the natural topography to obscure the facility.
 - c) Using non-reflective materials and colors that blend with the background unless otherwise required by the Federal Aviation Administration or the Oregon Department of Aviation; and
 - d) Setting the facility back from the edge of public arterial rights-of-way, state highways, county roads, Type F and Type D streams, viewpoints and other significant visual resources identified in the comprehensive plan and retaining or planting vegetation to obscure views of the facility from those areas.
- K. The proposed site is not within a scenic corridor. Scenic corridors include federal or state scenic byways, scenic highways, scenic areas, scenic waterways and local scenic view corridors listed in the comprehensive plan. A proposed project that is adjacent to a scenic

corridor may be approved if the applicant proposes mitigation measures that would protect the resource values of the designated scenic corridor. Such measures may include, but are not limited to, using colors that blend with the background, setting the development back from a right-of-way or stream corridor, using the natural topography to screen the facility and retaining or planting vegetation that would obscure the view of the facility.

- L. As part of their application, the applicant has on file fire protection measures for the construction and operation of the proposed facility that are acceptable to the county and other land management agencies adjacent to the facility.
- M. Signs are subject to the criteria of Article 34, Signs. Additionally, there may be no more than 2 signs relating to the name and operation of the facility on the site.
- N. The applicant must show that the construction and operation of the proposed facility is not likely to cause significant adverse impact to historic and cultural resources identified by the State Historic Preservation Office or identified in the County's Comprehensive Land Use Plan. The applicant must submit for approval as part of their application, a plan to preserve any previously undiscovered archeological, historical or cultural artifacts discovered during construction or operation of the proposed facility in compliance with applicable county, state, and federal law.

02. Criteria Specific to Wind Generation Towers:

To issue a Conditional Use/Special Use permit for a proposed wind energy facility, the planning authority must find that:

- A. Visual Impact: The wind energy facility to the extent practical:
 - i) Uses underground electric collection lines (from the turbines to the substation).
 - ii) Uses turbine towers of uniform design, color and height.
 - iii) Use the minimum lighting necessary for safety and security purposes and uses appropriate techniques to prevent casting glare from the site.
 - iv) Uses existing roads to provide access to the facility site, or if new roads are needed, minimizes the amount of land used for new roads and locates them to reduce visual impact and other adverse environmental impacts such as erosion.
 - v) Uses existing substations, or if new substations are needed, minimizes the number of new substations and their visual impact.
- B. Wildlife Resources: The design and construction of the proposed wind energy facility is not likely to cause significant adverse impact to

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wildlife. The applicant's design for the facility uses reasonable methods to protect wildlife resources that may include, but are not limited to, the following:

- i) Conducting at least one year of baseline wildlife surveys in the areas affected by the proposed facility.
- ii) Designing turbine towers to reduce horizontal surfaces for perching.
- iii) Designing turbine towers and pad-mounted transformers to avoid creation of artificial habitat or shelter for raptor prey.
- iv) Spreading gravel on turbine pad areas to minimize weeds and avoid creation of habitat for raptor prey.
- v) When underground cabling is not practical, use anti-perching protection devices on transmission line support structures.
- vi) Locating turbines away from saddles in long ridges.

vii) Avoiding construction activities near nesting locations during sensitive breeding periods and using appropriate no-construction buffers around nest sites.

C. Public Safety: The applicant can design and operate the proposed facility to protect public safety by measures that may include, but are not limited to, the following:

- i) Designing turbine blades so that at the closest point, the sweep of the blades is at least 20 feet above the tallest existing or foreseeable obstruction to blade movement.
- ii) Designing, constructing and operating the facility to exclude the public from close proximity to turbine blades and electrical equipment.
- iii) Designing, constructing and operating the facility to preclude structural failure of the tower or blades that could endanger the public safety and to have adequate safety devices and procedures to warn of impending failure and to minimize the consequences of such failure.
- iv) Restricting public access to the interior of tubular turbine towers by installing locked access doors.

D. Proposed wind turbine towers shall be setback from property lines a distance no less than the overall height of the wind tower structure including the blades. This setback requirement can be reduced or waived for property lines shared between contiguous properties upon which the wind farm facility is located.

E. The proposed facility would comply with the noise regulations of the Oregon Department of Environmental Quality in OAR Chapter 340, Division 35. As part of their application, the applicant must submit a qualified expert's analysis and written report.

03. Criteria Specific to Wireless Communication Towers:

01. Existing wireless or other appropriate towers within two miles of proposed site must be utilized first. Applicant must supply compelling evidence if antenna cannot use an existing tower.
02. New towers may not exceed 180 feet. If applicant requires more height, a Variance application is required.

SECTION 57.030, TERMINATION AND DECOMMISSIONING:

The applicant would comply with the following requirements before beginning construction of the proposed facility:

01. The applicant agrees to submit to the County a written plan for decommissioning the facility and restoring the project site. The applicant must submit the plan for review with the application for the facility. The plan must include removal of aboveground and underground equipment, structures and foundations (to a depth of at least 3 feet). The plan must include a schedule for completion of site restoration work. The plan must provide for the protection of public health and safety and for protection of the environment and natural resources during site restoration. For any part of the facility on leased property, the decommissioning plan may incorporate agreements with landowners regarding leaving access roads, fences, gates or buildings in place or regarding restoration of agricultural or forest resource land.
02. The facility operator must submit a bond or letter of credit in a form and amount satisfactory to the County, assuring the availability of adequate funds to restore the site to a useful, non-hazardous condition, if the operator fails or is otherwise unable to restore the site.

SECTION 57.030, AVOIDANCE OF DUPLICATION:

The applicant may incorporate by reference any information developed or submitted in any other application if the applicant submits a copy or summary of the referenced material, identifies the proceeding in which it was submitted and the outcome of that proceeding and explains the relevance of the information to the approval standards.

SECTION 57.035, PERMIT DURATION:

The permit will expire two years from the Date of Decision for the permit unless the applicant has completed substantial construction or development of the permitted facility. The Planning Commission will be the arbitrator of what constitutes substantial construction or development.

The expiration date may be extended if the applicant submits a written request to the Wallowa County Planning Department for a one time one year extension prior to the expiration date of the permit.

SECTION 57.040, AMENDMENTS FOR WIND POWER PERMITS:

01. Wind power generation permits shall be site specific, but may be amended. A change requiring an extension of the boundaries of the original site will require Public Hearing Review.

02. An amendment to the use permit, requiring Public Hearing Review shall be required if proposed changes would:

- A. Increase the land area taken out of agriculture production.
- B. Increase the number of towers
- C. Increase in the visual impact of the generators or their towers.