

ARTICLE 10 WIND ENERGY FACILITIES

SECTION 10-100 APPLICABILITY.

The review process set forth in this Article 10 shall apply to all Wind Energy Facilities that do not fall within the statutory definition of Major Electrical Facilities of a public utility or a power authority, as that term is defined by Section 29-20-108, C.R.S.

If any portion of a Wind Energy Facility is within the statutory definition of a Major Electrical Facility of a public utility or a power authority, that portion shall be subject to a separate application, and shall be subject to the other requirements of Kit Carson Land Use Resolution and to Colorado statutory and regulatory requirements.

SECTION 10-110 DEFINITIONS. In addition to the definitions set forth under Article 4 of the Kit Carson County Land Use Resolution, the following definitions apply to terms used in the regulatory provisions of this Article 10.

Conditional Use Development Permit for a Wind Energy Facility (Conditional Use Development Permit). A permit issued by the County required for the siting, construction and operation of a Wind Energy Facility.

Hub Height. The distance measured from ground level to the center of the turbine hub.

Owner. The entity or entities with an equity interest in the Wind Energy Facility, including their respective successors and assignees. Owner does not refer to the property owner from whom land is leased to locate a Wind Energy Facility, unless the property owner has an equity interest in the Wind Energy Facility.

MET Tower. A meteorological tower used for the measurement of wind speed.

Structure. A structure refers to above ground components of the Wind Energy Facility, including wind turbines and buildings accessory to the Wind Energy Facility. A structure does not include transmission line poles or substations.

System Height. The combined height of the tower, the wind turbine and any blade extended at its highest point, measured from ground level.

Wind Energy Facility. An electricity generating facility consisting of one or more Wind Turbines under common ownership or operating control, and includes substations, MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customer(s).

Wind Turbine. A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator. The term "Wind Turbine" shall include the turbine, blade, tower, base and pad transformer.

SECTION 10-120 CONDITIONAL USE DEVELOPMENT PERMIT APPLICATION REQUIREMENTS FOR A WIND ENERGY FACILITY.

- A. APPLICATION MATERIALS.** The Applicant shall submit an application for a Conditional Use Development Permit to the County that contains the minimum general information and materials required under Article 5, Section 5-100(D) of the Kit Carson County Land Use Resolution. The application fee for each permit shall be \$200 per megawatt (MW), with a minimum fee of \$2500.00, except for non-commercial generators. The purpose of the application fee is to compensate Kit Carson County for the cost of reviewing and processing applications for a Conditional Use Development Permit. The application fee shall be used to offset any costs that the County incurs in reviewing the Conditional Use Development Permit application, including costs incurred from retaining the services of outside agencies or technical consultants to review components of the Conditional Use Development Permit application. If the costs incurred by the County and outside review agencies and technical consultants exceed the amount of the application fee, any reasonable and documented additional costs will be discussed with the Applicant prior to the County retaining these additional services.

Wind Energy Facilities shall require a Conditional Use Development Permit, issued by the Board of County Commissioners upon the recommendation of the County Planning Commission. After Conditional Use Development Permit has been granted, but before construction has commenced, the Board of County Commissioners shall, upon the recommendation of County Staff, confirm in writing that all outstanding pre-construction documentation set forth in these regulations has been provided, per the schedule set forth in Section 10-130 C.

The following materials shall be required in all applications for a Conditional Use Development Permit for a Wind Energy Facility:

1. **Location Map.** A location map, to scale, that illustrates the following:
 - a. Location of the proposed Wind Energy Facility in the County, and a description of the current land use.
 - b. All property within the site and within 500 feet of the exterior boundary of the site of the proposed Wind Energy Facility.
 - c. The location and description of the current land use, including agricultural use, dwelling units, microwave communication links and airports.
2. **Conceptual Site Plan.** The Conceptual Site Plan shall be prepared in accordance with the Kit Carson County Land Use Resolution, including Section 5-100 (D.)6. and is to be submitted as part of the Conditional Use Development Permit Application. The Conceptual Site Plan, prepared at a scale acceptable to the County Staff shall include the following elements:

- a. Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north).
 - b. Clearly identified boundary lines and dimensions of the site where the proposed Wind Energy Facility will be located.
 - c. Project area boundary and approximate size of the site where the proposed Wind Energy Facility will be located, in acres or square feet.
 - d. Location of all existing structures and facilities on the site where the proposed Wind Energy Facility will be located, and on properties within 500 feet of the exterior boundary of the site.
 - e. Existing and proposed roads, railroad tracks, utility lines and facilities, irrigation ditches, and easements and rights-of-way within the site and within 500 feet of the exterior boundary of the site where the proposed Wind Energy Facility will be located, shown by location and dimension.
 - (1) Applicant shall provide a description of the ownership and a description of the easements and rights-of-way identified on or within 500 feet of the exterior boundary of the site.
 - f. Existing and proposed features and exclusion zones including applicable setbacks that are relevant to the review of the application, including contours, natural and artificial drainage ways, wetland areas, ditches, hydrological features (with flooding limits based on information available through the County), aquatic habitat, geologic features and hazards, and soil types, vegetative cover, dams, reservoirs, excavations, and mines.
 - g. Project description and proposed phasing of development.
 - (1) An application shall provide a description of the project and each phase of development, including the approximate number of Wind Turbines, and the accessory structures, power output (in MW), and infrastructure and interconnection requirements for each phase.
3. **Access.** Description of potential access route(s), including road surface material, proposed measures for dust control, and proposed road maintenance schedule or program.
4. **Utility Interconnection or Crossing.**
- a. The Applicant will provide certification of intent to enter into an interconnection agreement and crossing agreement(s) to/with applicable utilities.

5. **Impact Analysis.** The Applicant will provide a description of the impacts that the proposed Wind Energy Facility may cause, based upon the approval standards in Section 10-140 of this Article. This analysis shall include: a description of baseline conditions and the impacts that the proposed use may cause, as described in Section 10-140; a description of how the Applicant will mitigate impacts; and documentation that applicable standards will be satisfied. The Applicant shall also assess the potential effects of the proposed project on County services and capital facilities. In the event that impacts to County services or County capital facilities from construction and operation of a Wind Energy Facility are identified, the Applicant shall develop a plan to maintain County services and County capital facilities. If impacts cannot be fully mitigated, the Applicant may be required to pay the County a mutually agreed upon impact fee to allow the County to maintain existing County Services and Capital facilities.
 6. **Decommissioning Plan.** The Applicant shall provide a Decommissioning Plan in accordance with Section 10-140 C.(13) of this Article.
 7. **Notice to Landowners/Mineral Right Holders -** Applicant shall notify the individual property owners and mineral rights holders within the project site and within 500 feet of the exterior boundary of the project site of the proposed project in accordance with County and State notification requirements.
 8. **Additional Information and Waivers.** The County may request additional information that may be required to evaluate the proposed Wind Energy Facility. The County may waive or alter any of these minimum requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.
- B. PRE-CONSTRUCTION MATERIALS.** As a condition of the Conditional Use Development Permit, the Applicant will be required to submit the following materials prior to commencement of construction:
1. **Detailed Site Plan.** The Detailed Site Plan shall be prepared in accordance with the Kit Carson County Land Use Resolution, including Section 5-100 (D.)6. and is to be submitted prior to construction. The Detailed Site Plan, prepared at a scale acceptable to the County Staff and certified by a professional surveyor, shall also include the following elements:
 - a. Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north).
 - b. Location of all proposed structures and facilities, including the location and dimensions for *each* Wind Turbine in the proposed Wind Energy Facility, including:
 - (1) Setbacks for each Wind Turbines from property lines.
 - (2) Setbacks of all accessory buildings and structures.

- c. Description of utility interconnection and crossing.
 - d. The Detailed Site Plan shall be accompanied by a schematic drawing showing the Wind Turbine and range of dimensions, including system height, rotor diameter, hub height, and rotor ground clearance.
2. **Septic System.** If the proposed Wind Energy Facility includes uses that must be served by a septic system, the Applicant shall comply with applicable Kit Carson County requirements. The Applicant shall provide a statement certifying that the septic system for the Wind Energy Facility will comply with applicable County, State, and Federal requirements.
3. **Water Supply System.** If the proposed Wind Energy Facility includes uses that must be served by water, the Pre-Construction Materials shall describe the water source and sufficiency of the water supply for the Wind Energy Facility, including decreed or conditional water rights. If a well is required, the Applicant shall obtain the necessary permit from the State of Colorado Office of the State Engineer.
4. **Water and/or Wind Erosion Control Plan.** As part of the Pre-Construction Materials, the Applicant will provide a preliminary plan showing existing and proposed grading for the Wind Energy Facility site. The Drainage and Erosion Control Plan shall be accompanied by a description of practices that will be utilized to prevent erosion and run-off during construction. If there are any modifications to this plan, the Applicant will provide a final Drainage and Erosion Control Plan prior to commencement of construction.
5. **Analysis for Erosion, Sedimentation and Flooding.** If any Wind Turbine or accessory facility included in the proposed Wind Energy Facility is located within the 100-year floodplain, the Pre-Construction Materials shall include a preliminary report that addresses the potential for wind erosion, water erosion, sedimentation and flooding. If there are any modifications to the locations of Wind Turbines or ancillary facilities, the Applicant will provide a final report prior to commencement of construction.
6. **Geotechnical Report.** The Applicant shall provide written certification that prior to construction, a professional engineer licensed in the State of Colorado, will complete a Geotechnical Study that includes the following:
 - a. Soils engineering and engineering geologic characteristics of the site based upon on-site sampling and testing.
 - b. Foundation and tower systems design criteria for all proposed structures.
 - c. Slope stability analysis.
 - d. Grading criteria for ground preparation, cuts and fills, and soil compaction.

- 7. Road Agreement.** If any County Roads will be used during construction of a Wind Energy Facility for the purpose of transporting parts, materials and/or equipment, the Applicant shall enter into a Roads Agreement with the County. The Roads Agreement shall comply with Section 10-140(A.)5. of this Article and shall also include the following:

 - a.** A map of showing which County Roads will be used during construction.
 - b.** A pre-construction baseline survey of County Roads to be used during construction to document their pre-construction condition.
 - c.** A mitigation plan to address traffic congestion and potential impacts to County Roads to be used during construction.
 - d.** A legally binding agreement between the Applicant and the County that requires the Applicant to return any County Roads to their pre-construction baseline condition.
- 8. Notification Requirements**

 - a. Notice to FAA.** The Applicant shall provide written certification that Federal Aviation Administration (FAA) forms will be submitted to the FAA in accordance with FAA requirements.
 - b. Notice to Operator(s) of Communication Link.** If any Wind Turbine included within the proposed Wind Energy Facility is located within two (2) miles of any wireless communications link, the Applicant shall certify that they will notify the operator of the communication link in writing about the proposed project at least 30 days prior to commencement of construction.
- 9. Liability Insurance.** The Applicant shall provide evidence of liability insurance to cover loss or damage to persons and structures during construction and operation of the wind energy facility.
- 10. Maintenance of Wind Turbines.** The Applicant shall provide a statement certifying that the Wind Turbines will be maintained and operated in accordance with manufacturer specifications, Owner Environmental Health and Safety Plans, and applicable Occupational Health and Safety Administration (OSHA) requirements to ensure the safety of site personnel and the public.
- 11. Additional Information and Waivers.** The County may request additional information that may be required to evaluate the proposed Wind Energy Facility. The County may waive or alter any of these minimum requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

SECTION 10-130 CONDITIONAL USE DEVELOPMENT PERMIT REVIEW AND APPROVAL PROCESSES FOR A WIND ENERGY FACILITY.

- A. PRE-APPLICATION MEETING.** Applicant shall schedule a Pre-application Meeting with the County Staff to discuss the proposed Wind Energy Facility.
1. The Pre-application Meeting is intended to provide information pertinent to the site and the proposal, to provide an understanding of the applicable review procedures and the standards to be met for approval of the Conditional Use Development Permit application, and to explain the application materials required for submittal.
- B. COMPLETENESS DETERMINATION AND REVIEW OF CONDITIONAL USE DEVELOPMENT PERMIT APPLICATION MATERIALS.** Within fifteen (15) business days following receipt of the Conditional Use Development Permit application, the County Staff shall determine whether the application is complete. An application shall be deemed complete if it includes all information identified as being required in the Pre-Application Meeting and in Section 10-120(A.) of this Article.
1. **Application is Not Complete.** If the application is not complete, the County Staff shall notify the Applicant in writing of any materials that must be submitted for the application to be deemed complete. The time to review the application shall not begin to run until the application has been determined to be complete.
 2. **Completeness Date.** Once the application has been determined to be complete, the County Staff shall stamp the application with the date that it was determined to be complete, and all time frames pertaining to review of the application shall be based on the completeness date.
- C. REVIEW OF CONDITIONAL USE DEVELOPMENT PERMIT APPLICATION MATERIALS.**
1. **Review by County Staff.** Within thirty calendar (30) days from the date of the completeness determination, the County staff shall review the Conditional Use Development Permit application to determine its conformance with the requirements of the Land Use Resolution, including Article 10 Wind Energy Facilities. The County Staff may request additional professional analysis in accordance with Article 5, Section 5-110(B) of the Land Use Resolution.
 - a. The period for comment by the review agencies shall be thirty (30) calendar days from the date the application is deemed complete by the County Staff, unless an extension has been requested by the referral agency. The County Staff may grant an extension if it is determined that good cause for delay has been shown. An extension shall not exceed 15 days. The failure of any agency to respond within the 30-day review period or within the period of extension shall be deemed an approval of such plan by the referral agency.

- b. The application fee shall be used for direct payment of review fees charged by engineers, consultants and referral agencies. If the costs incurred by the County and outside review agencies and technical consultants exceed the amount of the application fee, any reasonable and documented additional costs will be discussed with the Applicant prior to the County retaining these additional services.
 - c. The Applicant shall have the right to review the comments and recommendations received from the review agencies. The Applicant may submit additional information and make changes in the application to respond to the comments of the review agencies, under the following conditions:
 - (1) If the changes are substantial or significantly alter the nature, character or extent of the application, the County Staff may refer the information and revised application back to some or all review agencies for further comment.
 - (2) The County Staff may extend the period for comment as appropriate for agencies to review any additional information or revised application materials. Agencies would be allowed an additional 30 days to comment on any new information or revised application materials. The County may grant an extension if it is determined that good cause for delay has been shown. An extension shall not exceed 15 days. The failure of any agency to respond within the 30-day review period or within the period of extension shall be deemed an approval of such plan by the referral agency.
 - (3) The period of time for review and final action on an application by the Board is typically between 60 to 90 days following receipt of a complete application. In the event that an extension is required by County Staff, the period of time for review shall not exceed four (4) months from the date the application was determined to be complete.
2. **Evaluation of Application by County Staff.** The County Staff shall review the application for compliance with the relevant approval standards in Section 10-140 and prepare a staff report that recommends approval, approval with conditions or denial of the application. The report shall be forwarded to the Applicant and to the Planning Commission no less than fourteen (14) calendar days prior to the Planning Commission public hearing on the application.
- D. PUBLIC HEARING AND RECOMMENDATION BY PLANNING COMMISSION.** The public hearing process, including public notice, hearing procedure, action by Planning Commission, final decision, and Board of County Commissioners review and approval shall be governed by the requirements of Sections 5-110 (D) and (E) and 5-120 of the Land Use Resolution.
- E. APPROVAL TO PROCEED WITH CONSTRUCTION** - Within fifteen (15) business days from the date of receiving Pre-Construction Materials, the County Staff shall review

the Pre-Construction Materials to confirm that all conditions of the Conditional Use Development Permit have been met and will prepare a staff report that recommends approval, or approval with conditions, or denial of an Approval to Proceed with Construction. If the information in the Pre-Construction Materials are in conformance with the conditions of the Conditional Use Development Permit, the Board of County Commissioners will issue an Approval to Proceed with Construction with or without conditions at their next scheduled meeting. The period of time for review of Pre-Construction Materials and Approval to Proceed with Construction from the Board of County Commissioners is typically thirty (30) calendar days.

- F. LIFE OF PERMITS.** The Conditional Use Development Permit for a Wind Energy Facility shall be valid for the life of the Wind Energy Facility. If new turbines are installed that substantially and materially differ in quantity or technology from the turbines originally shown in the Detailed Site Plan, an amendment to the Conditional Use Development Permit or a new Conditional Use Development Permit will be required prior to installation.
- G. MONITORING** Upon reasonable notice, the Board or its official representative may coordinate with the Owner to enter the property on which a Wind Energy Facility has been permitted to confirm compliance with the terms of permit approval and applicable County regulations. All County representatives who enter the premises agree to comply with all of the Owner's safety requirements which may include, but are not limited to, the use of safety glasses, hard hats, and safety vests, which shall be provided by the Owner.

SECTION 10-140 STANDARDS APPLICABLE TO WIND ENERGY FACILITY

A. GENERAL STANDARDS

- 1. PUBLIC HEALTH, SAFETY AND WELFARE.** The Proposed Wind Energy Facility shall not be detrimental to the health, safety or general welfare of the community. The Wind Energy Facility, including all Wind Turbines, shall be maintained and operated in accordance with manufacturer specifications, Owner Environmental Health and Safety Plans, and applicable Occupational Health and Safety Administration (OSHA) requirements to ensure the safety of site personnel and the public.
- 2. COMPLIANCE WITH COMPREHENSIVE PLAN AND INTER-GOVERNMENTAL AGREEMENTS.** The proposed Wind Energy Facility is consistent with relevant provisions of the Kit Carson County Comprehensive Plan and any intergovernmental agreement between the County and a municipality that applies to the area where the use will occur.
- 3. COMPLIANCE WITH OTHER REGULATIONS.** The Wind Energy Facility shall comply with all applicable rules and regulatory requirements of the State and Federal agencies, and of Kit Carson County.

4. WATER AND WASTEWATER SERVICE.

- a. The water and septic system shall be adequate to serve the Wind Energy Facility.
- b. The water and septic system shall comply with County, State, and Federal standards.

5. ROADWAYS AND ACCESS.

- a. Legal access to a public right-of-way to and from the Wind Energy Facility shall be safe and in conformance with access standards set forth in the County Road and Bridge Standards.
- b. The Wind Energy Facility shall make reasonable efforts to not cause traffic congestion during operations and unsafe traffic conditions during the construction phase or operations.
- c. Adequate turning radii shall be installed at all entrances to accommodate large truck movement.
- d. Off-street parking and loading zones shall be surfaced with gravel or the equivalent and shall be graded to prevent drainage problems.
- e. Staging activities and parking of equipment and vehicles shall occur on-site and on private rights-of-way, and shall be prohibited on maintained County roads.
- f. The use of any County Roads during construction shall be in accordance with and in compliance of Federal, State, County and local regulations governing such activities. The Applicant will prepare a Roads Agreement that includes a mitigation plan to address potential impacts to County Roads to be used during construction. As part of the Roads Agreement, the Applicant at their expense will be required to return any County Roads that are impacted by construction to their pre-construction baseline condition.

6. SERVICE DELIVERY SYSTEM CAPACITY. The Wind Energy Facility shall not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.**7. IMPACT FEES.** In addition to the Roads Agreement (Section 10-120(B) 7., the Applicant shall also complete a study to assess the potential effects of the proposed project on County services and Capital facilities. In the event that impacts to County services or County capital facilities from construction and operation of a Wind Energy Facility are identified, the Applicant shall develop a plan to maintain County services and County capital facilities. If impacts cannot be fully mitigated, the Applicant may be required to pay the County a mutually agreed upon impact fee to allow the County to

maintain existing County Services and Capital facilities. The Owner shall provide all necessary training to allow the County to adequately handle the increased services provided by local fire departments and ambulance departments caused by the construction and operation of the Wind Energy Facility.

8. RESOURCE AND ENVIRONMENTAL PROTECTION STANDARDS.

- a. **WATER QUALITY PROTECTION.** The Wind Energy Facility shall not cause significant degradation of the quality of surface or ground water resources and shall comply with applicable County, State, and Federal water protection laws.
- b. **AIR QUALITY.** The proposed Wind Energy Facility shall comply with applicable County, State, and Federal air quality laws.
- c. **GLARE, DUST, OR NOISE.** Construction and operation of the Wind Energy Facility shall not significantly increase existing glare, dust, or noise at surrounding properties.
 - (1) To minimize the potential for glare, Wind Turbines shall be painted a neutral color such as matte white or matte gray.
 - (2) The proposed Wind Energy Facility shall comply with the statutory provisions for maximum permissible noise levels in Section 25-12-103, C.R.S.
 - (3) Fugitive dust and particulate emissions shall be controlled on the site.
 - (4) Waste materials shall be handled, stored, and disposed of in a manner that controls fugitive dust, fugitive particulate conditions, blowing debris and other potential nuisance conditions.
 - (5) The Wind Energy Facility shall comply with FAA minimum lighting requirements and be at the lowest intensity allowed. Any array of flashing or pulsed obstruction lighting shall be synchronized to flash simultaneously. No accessory lighting is permitted, except for lighting that is necessary for safety and security purposes.
- d. **EROSION AND SEDIMENTATION CONTROL.** Erosion and sedimentation control measures that ensure that disturbed areas and soil stockpiles are stabilized during construction shall be implemented. Disturbed areas shall be revegetated in accordance with landowner agreements.
- e. **DRAINAGE/STORMWATER RUN-OFF.** Run-off shall be managed in accordance with applicable County, State and Federal regulations.

(1) If applicable, the Applicant shall obtain a Construction Stormwater Discharge Permit from the Colorado Department of Public Health and the Environment, Water Quality Control Division.

f. **PROTECTION OF AGRICULTURAL LANDS.** The Wind Energy Facility shall not have a significant adverse impact on agricultural lands and agricultural operations above what is allowed for under landowner lease agreements.

B. SITE AND FACILITY DEVELOPMENT STANDARDS

1. GENERAL SITE PLAN STANDARDS.

- a. The site is adequate in size and shape to accommodate the Wind Energy Facility and all appurtenant facilities.
- b. To the extent practicable, the site shall be developed in a manner that preserves the natural features of the site, avoids areas of environmental sensitivity, and minimizes adverse visual impacts.

2. **HEIGHT RESTRICTIONS.** The height and location of any structure within the Wind Energy Facility shall be subject to FAA approval.

3. **SETBACKS.** Unless otherwise required by federal or state regulations applicable to the Wind Energy Facility, the following minimum setbacks shall apply.

- a. **Measurement.** Front, rear and side setbacks shall be measured as the distance between the nearest lot line and the center point of a structure, along a line at right angles to the lot line.
- b. **Safety Setbacks.** The following setbacks shall apply to each Wind Turbine comprising the Wind Energy Facility.

MINIMUM SETBACKS	
Setback from above-ground public electric power lines or communications lines	1.1 times system height
Setback from public road or highway or railroad ¹	1.1 times system height
Setback from public road or highway with ADT ³ of 7,000 or more ²	1.1 times system height
Setback from inhabited structures, including: residence, school, hospital, church or public library.	2 times system height

MINIMUM SETBACKS	
Setback from all other property lines, unless appropriate easements are secured from adjacent property owners or other acceptable mitigation is approved by the Board.	1.1 times system height
<ol style="list-style-type: none"> 1. Measured from the outer boundary of the public utility right-of- way or easement [or from existing power line or telephone line]. 2. Measured from the outer boundary of the public road/highway right-of-way or railroad right-of-way. 3. Average daily trips, based on traffic field measurements [determined by CDOT or County]. 	

c. Scenic Resources Setback. Wind Turbines comprising the Wind Energy Facility shall be setback a minimum 1/4 mile from any highway, designated to be a scenic highway or roadway by the Kit Carson County Comprehensive Plan or by the State.

- (1) A scenic resource protection setback requirement may be reduced to 1.1 times the total Wind Turbine height if the Board determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value.

d. Notice and Record of Waiver or Reduction of Setback.

- (1) Any proposed setback waiver or reduction shall be included in all public notices regarding the Conditional Use Development Permit application review.
- (2) If the application is approved with a setback waiver or reduction, the approved setbacks shall be specified in the approval.

4. MINIMUM GROUND CLEARANCE. The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than sixty (60) feet.

5. SAFETY AND SECURITY.

- a. Fencing, or other barriers acceptable to the County, shall be installed to prevent unauthorized access to the Wind Energy Facility substations.
- b. Reasonable attempts will be made to maximize the properties of wiring between Wind Turbines and the Wind Energy Facility substation that is located underground.
- c. Guy wires shall be distinctly marked.
- d. Any climbing apparatus that is not secured behind a lockable gate or door shall be a minimum of fifteen (15) feet from ground level.
- e. All access doors to Wind Turbine towers and electrical equipment shall be lockable.

- f. Signs warning of the electrical hazard and other hazards associated with the Wind Energy Facility shall be posted at the base of each Wind Turbine tower, electrical equipment, and at the entrance of the Wind Energy Facility.

6. FIRE PROTECTION. The Wind Energy Facility shall have adequate fire control and prevention measures.

7. UNDERGROUND LOCATION OF ELECTRICAL COLLECTION SYSTEM WIRING. Unless geologic conditions or other technical or engineering considerations prevent underground installation, electrical collection system wiring and powerlines for the Wind Energy Facility shall be installed underground except where the Wind Energy Facility collector system wiring is brought together from the project substation to the point of electrical interconnection. Overhead transmission lines are permissible from the project substation to the point of electrical interconnection.

All underground installations located within the public road easement or right-of-way shall comply with the applicable permit and design requirements of Kit Carson County Road and Bridge, and should include the following elements:

- a. **Restoration.** Any disturbed portion of the right of way shall be restored as nearly as possible to the condition as existing immediately prior to installation.
- b. **Safety.** Safety measures shall be implemented in accordance with County, State and Federal requirements to protect the public.
- c. **Roadway Crossing.** If the installation crosses a roadway, it shall be located as perpendicular to the roadway as physically possible and installed in compliance with the requirements of Kit Carson County Road and Bridge.
- d. **As-built drawings.** As-built drawings shall be provided to Kit Carson County Road and Bridge once the installation has been completed.
- e. **Permit and Notice to Proceed.** Work shall not commence until the required permit(s) and notice to proceed with the installation(s) have been issued by Kit Carson County Road and Bridge.

8. INTERCONNECTION AND ELECTRICAL DISTRIBUTION FACILITIES.

- a. Transmission from the project substation to the point of electrical interconnection shall comply with the National Electric Code.
- b. Interconnection shall conform to the requirements of the electric utility company, and applicable State and Federal electrical codes.

- 9. ELECTROMAGNETIC INTERFERENCE.** The Applicant shall minimize or mitigate any interference with electromagnetic communications caused by the Wind Energy Facility, including radio, telephone or television signals.
- 10. CERTIFICATION OF EQUIPMENT AND APPURTENANT FACILITIES.**
- a.** All wind turbine towers and foundations systems (i.e. structural systems) shall be reviewed by a registered structural engineer, licensed in Colorado, to confirm their compliance with the applicable State, Federal and local regulations and to conform with good engineering practices.
 - b.** The electrical system shall be certified by a registered electrical engineer, licensed in Colorado, to be compliant with the applicable State, Federal and local regulations, and to conform with good engineering practices.
- 11. SIGNS.** Wind Turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy Facility.
- 12. COLOR AND FINISH.**
- a.** All Wind Turbines shall be painted a non-reflective, non-obtrusive white or gray color.
 - b.** Design of accessory buildings and related structures shall, to the extent practicable, use materials, colors, textures, screening and landscaping that will blend the Wind Energy Facility to the natural setting and existing environment.
- 13. DECOMMISSIONING PLAN.** Prior to receiving siting approval under these Regulations, the County and the Applicant(s), Owner(s), and/or Operator(s) must formulate a Decommissioning Plan to ensure that the Wind Energy Facility is properly decommissioned. The details of the Decommissioning Plan may be based on existing landowner agreements and shall include the following:
- a.** Provisions describing the triggering events for decommissioning the Wind Energy Facility or any portion thereof. If landowner agreements do not describe the decommissioning schedule, decommissioning shall be completed within 18 months of an owner filing a Notice of Termination of Operations with the County.
 - b.** Provisions for the removal of structures, debris and cabling, including those below the soil surface to depths agreed to in landowner agreements or down to 24 inches;
 - c.** Provisions for the restoration of the soil and vegetation;
 - d.** A description of the form of Financial Assurance for decommissioning as agreed upon under landowner agreements. In the absence of such agreements, the Applicant is required to provide financial assurance in one of the following form(s):

self bond, a surety bond, a federally insured certificate of deposit, government-backed securities, corporate guarantee, letter of credit, or cash (“Financial Assurance”). Financial Assurance is to begin in year 15, secured by the Owner(s) or Operator(s), for the purpose of adequately performing decommissioning, in an amount equal to the decommissioning costs;

- e. An estimate of the decommissioning costs certified by a Professional Engineer to be updated every five (5) years following year 15;
- f. Identification of and procedures to access Financial Assurances;
- g. A provision that the terms of the Decommissioning Plan shall be binding upon the Owner(s) or Operator(s) and any of their successors, assigns or heirs; and
- h. If decommissioning does not proceed in accordance with the Decommissioning Plan, the County shall have the right, but not the requirement, to enter the property and cause the appropriate abandonment and decommissioning measures as determined by the approved Decommissioning Plan.
- i. A provision that the County shall have the right to review final decommissioning and reclamation to confirm it is consistent with the Decommissioning Plan.
- j. The Applicant may provide documentation to the County to demonstrate that Financial Assurances for decommissioning have been sufficiently addressed as part of landowner agreements. Documentation of the selected form(s) of financial assurance to be secured in year 15 shall be filed with the Planning Commission as part of the permit application procedures and prior to the approval of Applicant(s) Conditional Use Development Permit. The Kit Carson Planning Commission may reject the proposed forms of assurance of financial responsibility if the evidence submitted by the Applicant does not adequately assure that funds will be secured as required by these rules. Applicant(s) shall be notified in writing within 60 days of receipt of the evidence of financial assurance of the decision to accept or reject the proposed forms of financial assurance. If an application is approved, any bond or other form of financial assurance may be canceled by the surety only after ninety (90) days written notice to the Board of County Commissioners, and upon receipt of the Board’s written consent, which may be granted when the requirements of the bond or assurance have been fulfilled.
- k. Financial Assurance Forfeiture. Bond or other financial assurance forfeiture proceedings shall occur only in the event that abandonment and decommissioning does not comply with the Decommissioning Plan and a cure period of 60 days has expired.