Contents

18.16.060 Commercial Facilities for Generating Power

(1) All commercial facilities for generating power are subject to the requirements and definitions of chapter 18.161.

(a) Wind power generation facility. For purposes of this chapter and chapter 18.161, a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility.

(b) Photovoltaic solar power generation facility. For purposes of this chapter and chapter 18.181, a photovoltaic solar power generation facility includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the

photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1,320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and Chapter 860 OAR, Division 39 or a feed-in-tariff project established consistent with ORS 757.365 and Chapter 860 OAR, Division 84.

(c) Renewable energy facility. For purposes of this chapter and chapter 18.161, means either a wind power generation facility or photovoltaic power generation facility.

(2) Permanent Features. Permanent features of a commercial facility for generating power shall not use, occupy, or cover more than:

(a) Twelve acres on high-value farmland unless an exception is taken pursuant to ORS 197.732 and Chapter 660 OAR, Division 4; or

(b) Twenty acres on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and Chapter 660 OAR, Division 4.

(3) Temporary Workforce Housing. Commercial facilities for generating power may include on-site and off-site facilities for temporary workforce housing for workers constructing the 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. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval.

(4) Goal 5. If a renewable energy facility is proposed to be developed on lands that contain a Goal 5 resource, other than fish and wildlife, protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed

Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures.

(5) Wind Power Generation Facilities.

(a) High Value Farmland. For wind power generation facility proposals on high-value farmland soils, as described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:

(i) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

1. Technical and engineering feasibility;
2. Availability of existing rights-of-way; and
3. The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under subsection (5)(a)(ii) of this section;

(ii) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;

(iii) Costs associated with any of the factors listed in subsection (5)(a)(i) of this section may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

(iv) The owner of a wind power generation facility approved under this subsection (5)(a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and

(v) The criteria of subsection (5)(b) of this section are satisfied.

(b) Arable Lands. For wind power generation facility proposals on arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:

(i) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;

(ii) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

(iii) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and

(iv) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.

(c) For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of subsection (5)(b)(iv) of this section are satisfied.

(d) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in subsections (5)(b) and (c) of this section, the approval criteria of subsection (5)(b) of this section shall apply to the entire project.

(e) Standards found in chapter 18.161 shall also apply.

(6) Photovoltaic Solar Power Generation Facility

(a) Size limitations. Photovoltaic solar power generation facilities shall not preclude the following acreages from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and Chapter 660 OAR, Division 4:

(i) 12 acres of High Value Farmland;

(ii) 20 acres of Arable Lands; or

(iii) 320 acres of Nonarable Lands.

(b) The project shall not be located on high-value farmland soils or arable soils unless it can be demonstrated that:

(i) Lesser quality soils are not available on the subject tract;

(ii) Siting the project on lesser quality soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of lesser quality soils;

(c) High Value Farmland and Arable Soils. The following additional criteria apply for high value farmland and arable soils.

(i) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established. If the area of photovoltaic solar power generation facilities constructed or in receipt land use approvals and building permits, either as a single project or as multiple facilities, exceeds 48 acres on High Value Farmland or 80 acres of Arable Soils within the study area, the County must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

(ii) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;

(iii) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval; and

(iv) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval.

CHAPTER 18.161 COMMERCIAL POWER GENERATING FACILITIES

18.161.005 Purpose

The purpose of this chapter is to establish requirements for commercial energy facilities and related uses in Crook County. The goals of this chapter are to:

• Establish a clear, consistent and accountable application process for renewable energy developers;

• Collaborate and coordinate with agencies and other stakeholders;

• Minimize conflict with other permitted uses through compatibility review;

• Protect resources identified in Crook County's comprehensive plan;

• Protect the public health, safety and general welfare of the citizens of Crook County.

18.161.010 Definitions

For the purposes of this chapter, the following definitions apply:

(1) Alternative sites. Wildlife habitat mitigation sites and measures that can include off-proximity and out-of-kind habitat mitigation.
(2) Arable land. Land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.
(3) Arable soils. Soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" do not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.
(4) "Archaeological resources," "Cultural resources," and "Historic resources" are as defined in OAR 660-023-0200.
(5) CCSWD. The Crook County Soil and Water Conservation District.
(6) Cultural resources. See archaeological resources.
(7) Development action. Any activity subject to regulation by local, state, or federal agencies that could result in the loss of fish and wildlife habitat. Development actions also include subsequent re-permitting for activities with new impacts or continued impacts that have not been mitigated consistent with current standards.
(8) DOD. United States Department of Defense.
(9) Essential habitat. Any habitat condition or set of habitat conditions which, if diminished in quality or quantity, would result in depletion of a fish or wildlife species.
(10) FAA. United States Federal Aviation Administration.
(11) Habitat. The physical and biological conditions within the geographic range of occurrence of a species, extending over time, that affect the welfare of the species or any sub-population or members of the species.
(12) Habitat quantity. The amount of a given habitat type, typically expressed as a measurement in acres.
(13) Habitat quality. The relative importance of a habitat with regard to its ability to influence species presence and support the life-cycle requirements of the fish and wildlife species that use it.
(14) Habitat type. The classification of a site or area based on its dominant plant, soil, and water associations or other salient features (e.g. tidal influence, salinity, substrate, alkalinity, etc.) of value to the support and use by fish and wildlife.
(15) High Value Farmland. As defined in ORS 195.300(10) and CCC 18.08.

(16) Historic resources. See Archaeological Resources.

(17) Home range. The area that a species traverses in the scope of normal life-cycle activities.

(18) Important habitat. Any habitat recognized as a contributor to sustaining fish and wildlife populations on a physiographic province basis over time.

(19) In-kind habitat mitigation. Habitat mitigation measures which recreate similar habitat structure and function to that existing prior to the development action.

(20) In-proximity habitat mitigation. Habitat mitigation measures undertaken in proximity to areas affected by a development action. For the purposes of this policy, "in proximity to" means within the same home range or watershed (depending on the species or population being considered) whichever will have the highest likelihood of benefiting fish and wildlife populations of Crook County directly affected by the development.

(21) Irreplaceable habitat. Successful in-kind habitat mitigation to replace lost habitat quantity and/or quality is not feasible within an acceptable period of time or location, or involves an unacceptable level of risk or uncertainty, depending on the habitat under consideration and the fish and wildlife species or populations that are affected.

(22) Limited habitat. An amount of habitat insufficient or barely sufficient to sustain fish and wildlife populations over time.

(23) Military Special Use Airspace. Airspace of defined dimensions identified by an area on the surface of the earth wherein activities must be confined because of their nature, or wherein limitations may be imposed upon aircraft operations that are not a part of those activities. Limitations may be imposed upon aircraft operations that are not a part of the airspace activities. Military special use airspace includes any associated underlying surface and subsurface training areas.

(24) Military Training Route. Airspace of defined vertical and lateral dimensions established for the conduct of military flight training at indicated airspeeds in excess of 250 knots.

(25) Mitigation bank. Fish and/or wildlife habitat that is restored, created, or enhanced for the purpose of selling habitat credits in exchange for anticipated unavoidable future habitat loses due to development actions.

(26) Mitigation plan. A written plan that thoroughly describes the manner in which the impact of a development action will be reduced or eliminated over time, avoided, and/or minimized; and the affected environment, including fish and wildlife habitat, monitored, restored, rehabilitated, repaired and/or replaced or otherwise compensated for in accordance with this chapter.

(27) Net benefit. An increase in overall in-proximity habitat quality or quantity after a development action and any subsequent mitigation measures have been completed and monitored.

(28) Net loss. A loss of habitat quantity and/or habitat quality resulting from a development action despite mitigation measures having been taken.

(29) Nonarable land. Land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

(30) Nonarable soils. Soils that are not suitable for cultivation. Soils with an NRCS agricultural capability Class V – VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

(31) ODFW. The Oregon Department of Fish and Wildlife.

(32) Off-proximity habitat mitigation. Habitat mitigation measures undertaken outside the area that would constitute "in-proximity mitigation" but within Crook County.

(33) Out-of-kind habitat mitigation. Habitat mitigation measures which result in different habitat structure and function that may benefit fish and wildlife species other than those existing at the site prior to the development action.

(34) Oregon Renewable Energy Siting Assessment (ORESA). A renewable energy mapping tool housed on Oregon Explorer.

(35) Preferred sites. Wildlife habitat mitigation sites and measures that are both in-kind and in-proximity.

(36) Reliable method. A mitigation method fit to be relied upon that has been tested in areas with site factors similar to those affected by a development action and the area in which the mitigation action is being proposed and that has been found (e.g., through field trials, demonstration projects or scientific studies) to produce the habitat effects required to meet the mitigation goal for that action.

(37) Site factors. Climate, soil series, sediments, hydrology, salinity, pH, DO, plant community, fish and wildlife use, or other characteristics of an area that determine its capacity to produce vegetation or maintain habitat features valuable to fish and wildlife.

(38) Transmission line. A linear utility facility by which a utility provider transmits or transfers electricity from a point of origin or generation between transfer stations.

(39) Watershed. A drainage basin encompassing a stream, its tributaries, and associated uplands at the USGS 4th Field Hydrologic Unit level.

18.161.015 Renewable Energy Facility Application Requirements

An application for a renewable energy facility shall include all of the following unless waived by the director in writing:

(1) A description of the proposed renewable energy 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 facility, including a map showing the location of components and including:
   (a) Evidence of an active utility transmission interconnect request and/or process and description of same;
   (b) A route and permitting plan for transmission lines connecting the project to the grid; and
   (c) For wind energy facilities, evidence of wind monitoring data qualifying the wind resources within the project boundary;

(2) Identification of potential conflicts, if any, with:
   (a) Accepted farming practices 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 including photovoltaic energy system facilities on such adjacent lands.

(3) A transportation impact analysis (TIA) or traffic assessment letter (TAL), with proposed recommendations, if any, reflecting the applicable requirements of the Crook County transportation system plan and the transportation impacts of the renewable energy facility upon the local and regional road system during and after construction, after consultation with the Crook County Road Department. The TIA or TAL will designate the size, number, location and nature of vehicle access points and shall include a construction and vehicle access plan and appropriate road access permits if needed.

(4) An emergency management plan for all phases of the life of the facility. The plan shall address the major concerns associated with the terrain, dry conditions, limited access, and water quality. The plan shall identify the fire district and verify that the district has the appropriate equipment, training and personnel to respond to fires and, for wind energy facilities, high-angle and confined space rescues and spills. If the local fire department or district does not have adequate rescue capability, the applicant shall provide a plan for providing such in case of an emergency. Wind energy facilities shall also include a spill prevention control and counter measure plan (SPCC). An operation and maintenance plan (O&M) shall be submitted detailing expected work force, local response capability, controlled access, and, in the case of transmission lines, proof of emergency response capability in accordance with OPUC (Oregon Public Utility Commission) rules governing operation and maintenance of such lines.

(5) An erosion and sediment control plan. All ground disturbing activities shall be conducted in compliance with a National Pollutant Discharge Elimination System (NPDES) permit, where applicable, as required by the Oregon Department of Environmental Quality. The plan must include best management practices for erosion control during construction and operation of the facilities and permanent drainage and erosion control measures to prevent damage to local roads. The plan shall include measures to minimize soil compaction and shall be developed in consultation with the Crook County soil and water conservation district. At a minimum, 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. The plan should also address monitoring during post-construction.

(6) A wildfire plan. The renewable energy facility will be designed, constructed, and managed in a way that will promote the prevention and mitigate the risk of wildfire. This provision may be satisfied by the submittal of a wildfire plan prepared by a qualified individual.

(7) A weed control plan. A weed control plan addressing the prevention and control of all Crook County identified noxious weeds prepared by an adequately qualified individual that includes a long-term maintenance agreement. The weed control plan shall consider construction and maintenance activities and a means to prevent the unabated introduction or spread of noxious weeds and other undesirable weed species. The approved plan shall be attached to the decision as a condition of approval.

(8) Information pertaining to the impacts of the renewable energy facility on:
   (a) Wetlands and streams;
   (b) Wildlife (all wildlife listed as identified Goal 5 resources in the comprehensive plan, state and federal listed endangered, threatened, sensitive and special status species, bats and raptors and species of local sport and economic importance); and
   (c) Wildlife habitat.

(9) Wildlife habitat assessment and wildlife impact monitoring or mitigation plan as required by CCC 18.161.035.

(10) A decommissioning plan of all components of the renewable energy facility and security, as provided in CCC 18.161.030.

(11) A socioeconomic impact assessment of the renewable energy facility, evaluating such factors as, but not limited to, the project's effects upon the social, economic, public service, cultural, visual, and recreational aspects of affected communities and/or individuals. These effects can be viewed as either positive or negative. The purpose of this information is to provide decision makers with information in order to

maximize potential benefits and to mitigate outcomes that are viewed as problematic. The applicant may submit information provided by the Economic Development of Central Oregon or similar entity to meet this requirement.

(12) A dust control and road maintenance plan. The plan shall identify the source of water for dust control. Roads shall be maintained for all weather access.

18.161.020 Procedure

(1) Pre-Application Notification and Consultation Requirements: An application under this chapter must include evidence of consultation regarding the proposed facility with the following persons or agencies prior to the submission of an application to the County:
   (a) ODFW regarding potential impacts to fish and wildlife, their habitat, and expected suggested avoidance or mitigation requirements; and
   (b) Notification to DOD, and if the facility is in the OZ 15 zone, consultation as required.

(2) Notification Requirements: Upon receipt of an application for a renewable energy facility, the County will prepare a notice with a description of the proposed facility and the subject lots or parcels; the dates, times and locations for public meetings and comment; and contact information for the applicant and planning director. In addition to any other requirements, the notice will be provided to the following persons:
   (a) The State Department of Fish and Wildlife;
   (b) The State Department of Energy;
   (c) The State Historic Preservation Officer;
   (d) The Oregon Department of Aviation;
   (e) The United States Department of Defense;
   (f) The City of Prineville; and
   (g) Tribes with an ancestral connection to lands within Crook County as informed by the Oregon Legislative Commission on Indian Affairs.

(3) Preliminary and Final Approval: County Decision Options - As part of the application materials the applicant shall indicate if they are requesting tentative or final approval.
   (a) Tentative Approval - A tentative approval may be issued when the applicant has submitted most of the required application materials but defers completion of one or more required discretionary elements such as the wildlife plan and all of its required baseline studies. Any deferred discretionary elements will be the only elements reviewed and decided upon during the final approval process. A tentative approval shall specify a time limit or expiration date within which all deferred discretionary review elements or plans shall be reviewed for final approval.

Pursuant to Section 18.172.060, the combined time for both the tentative and final approval shall be limited to 2 years with the opportunity for a one time 2-year extension. This time frame shall start on the date of the tentative approval.

(b) Final Approval - Final approval occurs when the applicant has submitted all of the required application materials, Crook County has issued a decision which includes conditions of approval that can be submitted for staff review and verification, and the appeal period has concluded.

(4) Modifications: The renewable energy facility requirements shall be site-specific, but can be amended as long as the facility does not exceed the boundaries of the Crook County land use permit where the original facility was constructed. An amendment to the specific requirements of the land use permit shall be subject to the standards and procedures found in [Chapter 18.170 CCC]. Additionally, an amendment shall be required if the facility changes would:

(a) Require an expansion of the established facility boundaries;

(b) Increase the number of turbine towers or photovoltaic energy system footprint by more than 20 percent;

(c) 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;

(d) Change any roads or access points at or inside the project boundaries;

(e) Change of ownership; and

(f) Notification by the facility owner/operator to the Crook County planning department of changes not requiring an amendment 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.

(5) Reports: At the end of each calendar year the renewable energy facility owner/operator shall provide Crook County an annual report including the following information:

(a) A summary of changes to the facility that do not require facility requirement amendments.

(b) A summary of the wildlife monitoring and habitation mitigation program, as required.

(c) Employment impacts to the community and Crook County during and after construction.

(d) Success or failure of weed control practices.

(e) Status of the decommissioning bond or other financial mechanism.

(f) Summary comments of any problems with the projects, any adjustments needed, or any suggestions.

(g) 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.

(6) Extensions. Requests for extensions of the development approval period are governed by CCC 18.172.060(2)(d).

(7) Decommissioning and Security. Through a decommissioning plan and sufficient security, the owner/operator shall dismantle or decommission the facility at the end of the useful life of the renewable energy facility, without significant delay, in a manner that protects public health, safety, and the environment in compliance with CCC 18.161.030.

18.161.025 Criteria

(1) Renewable Energy Facility Criteria. The following criteria apply to all renewable energy facilities:

(a) Public afety. The proposed renewable energy facility shall be designed and will be operated to protect public safety and prevent criminal activity, including development and implementation of a plan of operating procedures to prevent public access to hazardous areas.

(b) Private access roads established and controlled by the renewable energy facility shall be gated to protect the facility and property owners from illegal or unwarranted trespass, illegal dumping and hunting.

(c) Where practicable the electrical cable collector system shall be installed underground, at a minimum depth of three feet; elsewhere, the cable collector system shall be installed to prevent adverse impacts on agriculture operations.

(d) Cleaning Chemicals and Solvents. During operation of the proposed renewable energy facility, all chemicals or solvents used to clean equipment, photovoltaic panels, or heliostats should be low in volatile organic compounds and the operator should use recyclable or biodegradable products to the extent possible.

(e) In EFU zones any required permanent maintenance/operations buildings shall be located off site in one of Crook County's appropriately zoned areas, except that such a building may be constructed on site if:

(i) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers; and

(ii) The building will be removed or converted to farm use upon decommissioning of the photovoltaic energy system consistent with the provisions of subsection [(2)(e)] of this section.

(f) If the renewable energy system is located in or adjacent to an EFU zone, a covenant not to sue with regard to generally accepted farming or forest practices shall be recorded with the county. "Generally accepted farming or forest practices" shall be consistent with the definition of farming practice and forest practice under ORS 30.930. The applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm or forest use for generally accepted farming or forest practices.

(g) A road use agreement with Crook County regarding the impacts and mitigation on county roads during and after construction shall be required as a condition of approval.

(h) Airport Proximity. The proposed renewable energy facility is not located adjacent to, or within, the control zone of any airport.

(i) Military Zone. Renewable energy facilities identified in the military overlay zone must comply with the provisions of 18.[].

(j) A summary of as built changes in the facility from the original plan, if any, shall be provided by the owner/operator.

(k) The uses described in this chapter are subject to the zoning requirements of chapters 18.16, 18.28, 18.68, 18.72, 18.96 and any other applicable chapter.

(2) Wind Energy Facility Criteria

(a) Setbacks.

(i) The base of the tower shall be set back from all property lines, public right-of-ways, and above ground utility lines a distance equal to the height of the tower. The setback shall be measured to the center of the tower's base.

(ii) No portion of the facility shall be within one-half mile of properties zoned residential use or designated on a comprehensive plan as residential. If the facility is located in a residential zone then this restriction does not apply to the lot or parcel that the facility is located on, or any adjacent property in common ownership. Towers and turbines shall not be constructed closer than one-half mile of an existing residence unless a written waiver is obtained from the landowner, which shall become a part of the deed to that property. New electrical transmission lines shall not be constructed closer than 500 feet to an existing residence without prior written approval of the owner, said written approval to be made a part of the deed to that property. Turbine towers must be set back from any

public roadway a minimum distance of one and one-half times the total blade tip height.

(b) Safety. The proposed wind energy facility shall demonstrate the design, construction, and operation capability:

(i) To exclude members of the public from close proximity to the turbine blades and electrical equipment; and

(ii) To preclude structural failure of the tower blades that could endanger the public safety and to have adequate safety devices and testing procedures designed to warn of impending failure and to minimize the consequences of such failure.

(c) The turbine towers shall be of a size and design to help reduce noise or other detrimental effects. At a minimum the facility shall be designed and operated within the limits of noise standards established by the state of Oregon.

(d) Compliance with the standards found in OAR 660-033-0130(37) shall need to be demonstrated.

(3) Solar Energy Facility Criteria

(a) Setbacks. No portion of the facility shall be within 100 feet of properties zoned residential use or designated on a comprehensive plan as residential. If the facility is located in a residential zone then this restriction does not apply to the lot or parcel that the facility is located on, or any adjacent property in common ownership. Structures shall not be constructed closer than 100 feet of an existing residence unless a written waiver is obtained from the landowner, which shall become a part of the deed to that property. New electrical transmission lines shall not be constructed closer than 500 feet to an existing residence without prior written approval of the owner, said written approval to be made a part of the deed to that property.

(b) Misdirection of Solar Radiation. The proposed solar energy shall be designed and be operated to prevent the misdirection of solar radiation onto nearby property, public roads or other areas accessible to the public.

(c) Ground Leveling. The proposed photovoltaic energy system shall be designed and constructed so that ground leveling is limited to those areas needed for effective solar energy collection and so that the natural ground contour is preserved to the greatest extent practical.

(d) Compliance with the standards found in CCC 18.161.025, CCC 18.161 OAR 660-033-0130(38)[/660-023-0195] shall be demonstrated.

18.161.030 Decommissioning and Security

(1) Decommissioning Plan. A decommissioning plan is required that will provide for the complete dismantling or decommissioning of the facility and restoration of the site without significant delay in a manner that protects public health, safety, and the environment in compliance with this section. The decommissioning plan shall include:
    (a) A description of actions the facility owner proposes to take to restore the site to a useful, nonhazardous condition, including options for post-dismantle or decommission land use, information on how impacts to wildlife populations and the environment will be minimized during the dismantling or decommissioning process, and measures to protect the public against risk or danger resulting from post-decommissioning site conditions.
    (b) A current detailed cost estimate, with a comparison of that estimate to present funds of the bond or other financial mechanism for dismantling or decommissioning and a plan for assuring the availability of adequate funds for completion of dismantling or decommissioning. Subject to director approval, the cost estimate will be reviewed and updated by the facility owner/operator on a five-year basis, unless material changes have been made in the overall facility that would materially increase these costs. If so, the report must be revised within 120 days of completion of such changes.
(2) Restoration. Restoration of the site shall consist of the following:
    (a) Dismantling and removal of all above-ground energy facility structures. Concrete pads shall be removed to a depth of at least four feet below the surface grade, as well as surrounding gravel.
    (b) The underground collection and communication cables need not be removed if at a depth of three feet or greater. 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.
    (c) Access roads in EFU zones shall be removed by removing gravel and restoring the surface grade and soil.
    (d) In EFU zones after removal of the structures and roads, the area shall be graded as close as is reasonably possible to a condition compatible with farm uses or consistent with other resource uses. Revegetation 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 Crook County.
    (e) Roads, fences, gates, and improvements may be left in place if a letter from the landowner is submitted to Crook 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.

(3) Agreement and Security – The facility owner/operator shall submit to Crook County an agreement and security, acceptable to the county in form and amount and naming Crook County as beneficiary, obligee, or payee, which shall not be subject to revocation or reduction before both the decommissioning of the facility and the rehabilitation of the site.

(a) Type of Security. The facility owner/operator shall file with the agreement, in form acceptable to county counsel, to assure the full and faithful performance thereof, one of the following:

(i) A surety bond executed by a surety company authorized to transact business in the state of Oregon;

(ii) An irrevocable bank letter of credit issued by a federally licensed financial institution; or

(iii) Cash.

(b) Amount Required. Such security of full and faithful performance shall be for a sum approved by the county as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of county inspection. In addition, the security will include an amount equal to 20 percent of all other costs to serve as contingency.

(i) 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's Bureau of Economic Analysis (hereinafter "the Index"), or any decommissioning standards established by a successor agency. The amount of the bond or other financial mechanism shall be increased at such time when the cumulative requirements in the Index exceed 10 percent from the last change. If at any time the Index is no longer published, Crook County and the applicant shall select a comparable calculation of present year dollars. The amount of the security shall be pro-rated within the year to the date of decommissioning.

(c) Default Status. If the facility owner/operator fails to carry out provisions of the agreement and the county has unreimbursed costs or expenses resulting from such failure, the county shall call on the collateral for reimbursement. If the realized amount of the collateral exceeds costs and expenses incurred by the county, it shall release the remainder. If the realized amount of the collateral is less than the cost and expense incurred by the county, the facility owner/operator shall be liable to the county for the difference.

(d) The facility owner/operator shall describe the status of the decommissioning security in the annual report submitted to Crook County.

(4) If any disputes arise between Crook County and the landowner on the expenditure of any proceeds from the required security, either party may request nonbinding 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, or as the parties may otherwise agree among themselves.

(5) 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.

(6) Crook County may impose additional clear and objective conditions in accordance with the Crook County comprehensive plan, county zoning code and state law, which Crook County considers necessary to protect the best interests of the surrounding area, or Crook County as a whole.

(7) Prior to commencement of any decommissioning work, all necessary permits shall be obtained, e.g., Crook County land use permits, road access and other permits from the Crook County Road Department and the Oregon Department of Transportation or other entities.

18.161.035 Wildlife Habitat Mitigation

All renewable energy facilities are subject to the requirements of this section.

(1) Consultation with ODFW. Prior to submitting a final application, the applicant shall consult with ODFW regarding potential fish and wildlife impacts and an appropriate mitigation plan. Consultation should include, at a minimum, the existence of Significant Sage-Grouse Habitat, Priority Wildlife Connectivity Areas, High Use and Very High Use Wildlife Migration Corridors, and ODFW's wildlife habitat characterization. Evidence of the consultation shall be provided in the final application. Applicants are encouraged to consult with ODFW throughout the application process and the development of a wildlife habitat mitigation plan.
(2) Habitat Assessment. The final application shall include a habitat assessment of the proposed renewable energy facility site. The habitat assessment is to be the basis upon which the mitigation plan is based and shall include, at a minimum, the following:

(a) Location. The location and a description of the subject property's existing habitat structure and function for fish and wildlife. The location, physical and operational characteristics, and duration of the facility and its impacts.
(b) Affected Species. A complete list of the fish and wildlife species that will be significantly affected by the proposed facility.
(c) Impacts. The nature, extent, and duration of impacts to existing wildlife and wildlife habitat expected to result from the facility's full life-cycle.
(d) Alternatives. Consideration of any alternatives to the proposed facility, its location, or design and the relative differences in impacts to wildlife habitat.

(3) Mitigation Plan. If otherwise required by law or recommended by ODFW, the applicant shall provide a mitigation plan to address significant fish and wildlife impacts to achieve the relevant goal and standard consistent with these rules.
(a) A mitigation plan shall provide or meet, at a minimum, the following information and standards to establish compliance with these rules:
(i) The necessary information from the habitat assessment;
(ii) The mitigation actions to be performed;
(iii) A map and description of the proposed mitigation site(s) or an appropriate means to establish the habitat quality and proximity of the mitigation site;
(iv) A monitoring schedule over the life of facility impacts, with protocols and methods, to evaluate the performance of the mitigation measures; and
(v) Example documents that establish the necessary durational requirements to last the life of facility impacts.
(b) A mitigation plan shall include performance measures which include:
(i) Success criteria which clearly define the methods and measurements to meet the applicable goals and standards;
(ii) Criteria and a timeline for a formal determination that the mitigation goals and standards have been met;
(iii) Provisions for protection and management of the mitigation site throughout the life of the facility's impacts;
(iv) Methods to modify the mitigation plan, if necessary, to achieve the goals and standards; and
(v) A reporting schedule for identifying progress towards achieving the goals and standards.
(c) A mitigation plan shall include the following goals and standards dependent upon the wildlife habitat classification:
(i) Irreplaceable: No loss of habitat quality or quantity through avoidance of impacts.

(ii) Essential: No net loss and a net benefit through habitat mitigation projects at preferred sites.
(iii) Limited: No net loss through habitat mitigation projects at preferred sites.
(iv) Important: No net loss at either preferred or alternative sites.
(v) Potentially Important: Net benefit at either preferred or alternative sites.

(4) In lieu of a mitigation plan, an applicant may satisfy this section through mitigation banks or payment-to-provide mitigation through CCSWD (Crook County Soil and Water Conservation District), provided the payment is sufficient to cover the cost of property acquisition, mitigation actions, maintenance, and monitoring, and CCSWD provides evidence of available mitigation locations and plans sufficient to satisfy the requirements of this section.

(5) An applicant may present one or more mitigation plans for approval, provided each plan satisfies the requirements of this section.