

AREAS OF APPARENT GENERAL CONSENSUS

Real property provisions

- Requirement to record easement – as contemplated in publication draft
- Lease, easement requirements, prohibitions
 - Allow right of rescission
 - General agreement on items that are proper to include in a lease, easement
 - Mitigation agreements – no confidentiality requirements for unrelated claims

Siting criteria

- Measure setbacks – from center of turbine to edge of structure/feature
- Site around public airports – per FAA guidelines
- Treat airports used for air ambulance purposes as public airport

Noise

- Use PSC noise measurement protocol to conduct studies

Shadow flicker

- Shadow flicker mitigation required; not required to document if computer modeling shows eligibility
- Ok to mitigate when not required

Stray voltage

- Testing required
- Requirement to fix problems
- ****Clarification needed****
 - Duties of wind developer, duties of electric utility
 - Financial responsibilities of developer, electric utility

Construction and operation standards

- Physical characteristics requirements ok
- Electrical standards ok
- Construction, maintenance standards ok
- ****Emergency procedures – clarification needed****
 - Duties of wind developer, duties of local emergency services provider, political subdivision
 - Financial responsibilities of developer, local emergency services provider, political subdivision

Decommissioning requirements

- Requirement to decommission
- Site restoration required
- Require filing re: completion of decommissioning

Application process requirements

- Contents of an application ok
- Fewer requirements for small turbine applications
- Duplicate copies for political subdivision
- Public participation in application review
- Joint application review process ok
- Incomplete application process ok
- Additional information may be requested

Political subdivision process

- Approval process
- Written decision must be issued
- Change of operator/owner does not affect previously approved system
- **Fees – ok to charge reasonable fee – need to discuss fee as percentage of project cost**
- Require recordkeeping
- Record contents
- Require post construction filing
- Material changes must be approved separately
- Review of material changes limited to the material change

Commission review

- Commission review section ok

PROPOSALS FOR DISCUSSION**Setbacks / Noise / Shadow Flicker:**

Minimum safety setbacks coupled with noise and shadow flicker requirements

- Minimum safety setback requirements:
 - Establish minimum safety setback from nonparticipating property lines, participating and nonparticipating residences, occupied community buildings and public road right-of-way.
 - Minimum setback cannot be waived by participating or nonparticipating landowner.
 - Large wind energy system: Adopt the accepted industry safety set back of 1.1 times the turbine height proposed for use in the project.
 - Small wind energy system (up to three 100 kW turbines): No minimum setback.
- Noise standard:
 - Establish requirements for maximum noise experienced at a nonparticipating residence that is attributable to the wind energy system. Requirement must be complied with even if compliance results in siting wind turbines farther from a nonparticipating residence than the minimum setback requirement.
 - Summer night: 45 dbA; Day and non-summer nights: 50 dbA
 - Noise standard applies to all wind energy systems (large and small).
 - Compliance with noise requirement may be waived by nonparticipating landowner for compensation – see below.
- Shadow flicker standard:
 - Establish requirements for maximum shadow flicker experienced at a nonparticipating residence: 25 hours per year.
 - Large wind energy system: Use computer modeling to establish that nonparticipating residences would experience no more than 25 hours of shadow flicker per year. Nonparticipating residences shown to experience more than 20 hours of shadow flicker per year automatically eligible for mitigation.
 - Small wind energy system: Not required to use computer modeling, must mitigate nonparticipating residences with more than 20 hours per year of documented shadow flicker.
 - Compliance with shadow flicker standard may be waived by nonparticipating landowner for compensation – see below.
- Mitigation:
 - Hours of flicker or noise standards can be exceeded in exchange for compensation of non-participating landowner.
 - Minimum safety setback still required even if less restrictive noise and shadow flicker thresholds negotiated between the nonparticipating landowner and developer.
- Compensation for waiver:
 - No limit specified by rule on total compensation received by a nonparticipating landowner for waiver of noise or shadow flicker standards on a given property.

Signal Interference:

- Developer to use reasonable efforts to avoid causing television, radio, cellular telephone, line-of-sight communications interference.
- Developer to remedy television & radio, cellular telephone signal interference for the life of the wind energy system.

General notification requirements:

- Large wind energy system: Notify political subdivisions and nonparticipating landowners within 1 mile of proposed wind turbine host property 180 days before a project application is filed or 180 days before construction commences, whichever is earlier.
- Small wind energy system (up to three 100 kW turbines): Notify 90 days before project application or before construction commences.

Complaint Resolution:

- Developers and landowners are encouraged to think through possible complaint issues at the beginning of the wind development process. Addressing complaint issues early on will facilitate more discussion and allow developers more flexibility to address complaints where siting modifications can be made to address concerns.
- Require developer to address impacts to nonparticipating landowners. See noise, shadow flicker, signal interference standards above.
- Require developer to establish a complaint resolution process prior to filing application. Require political subdivision to establish a complaint resolution process when approving an application. Do not prescribe specifics of complaint resolution process through rules.

Wind leases & easements:

- Leases & easements should not make host landowner liable for property taxes associated with the wind energy system, damages caused by the wind energy system, or illegal acts by wind energy system developer, owner or operator.
- Compensation terms may be confidential.
- Landowner cannot be required to maintain confidential the existence of a lease or easement agreement.

Decommissioning:

- Wind turbine must be decommissioned when not operating for 18 continuous months, with limited exceptions for research/educational purposes.
- Political subdivision can require developer to provide that owner has financial ability to comply with decommissioning requirements. No specific limitations on form or amount of proof regarding financial ability to comply with decommissioning requirements.
- Require site restoration to level consistent with surrounding properties; restore brownfields to at least original condition.

PROPOSALS FOR FUTURE COUNCIL ACTIVITIES

1. Conduct an annual review of information regarding wind energy system safety.
2. Conduct an annual review of the effectiveness of complaint resolution requirements, processes and practices. Solicit information from affected parties regarding concerns about the complaint resolution process.
3. Conduct a periodic review of literature, studies and other information relating to health effects, decommissioning, and the political subdivision application process.
4. By October, 2014, prepare a report to the legislature describing any Council recommendations for legislative changes. Also by October, 2014, provide a report to the Public Service Commission describing any Council recommendations for changes to the administrative code.