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FEB 28 2012 THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

UMATILLA COUNTY
RECORDS

STATE OF OREGON

In the Matter of Amending)
Development Code for Wind) ORDINANCE NO. 2012-04
Power Generation Facility)
for Deletion of Setback)
Waiver Provisions as Required)
by LUBA Decision)

WHEREAS on May 20, 2003, the Board of Commissioners adopted Ordinance No. 2002-02, establishing requirements for the siting of wind power generation facilities, codified at Section 152.616 (HHH) of the Umatilla County Code of Ordinances;

WHEREAS the Planning Commission and Planning Department staff have drafted updates to the siting standards for wind power generation facilities;

WHEREAS the Umatilla County Planning Commission held work sessions and discussions on the matter a number of times, including December 17, 2009, and January 13, 2011, and held a public hearing regarding the proposed amendments on November 18, 2010 and February 24, 2011, and forwarded the proposed amendment to the Board of Commissioners with a recommendation for adoption;

WHEREAS the Board of Commissioners held a public hearing on March 17, 2011, continued to May 12, 2011, June 14, 2011 and June 28, 2011, to consider the proposed amendments, and voted 3-0 to adopt Ordinance No. 2011-05, and 2 in favor and 1 against to adopt Ordinance No. 2011-06;

WHEREAS Ordinance Nos. 2011-05 and 2011-06 were appealed to the Land Use Board of Appeals, under LUBA Nos. 2011-070, 2011-071, and 2011-072;

WHEREAS the Land Use Board of Appeals issued a decision on January 12, 2012, finding, *inter alia*, that the waiver of the setback requirements impermissibly delegated authority, and that the waiver provisions in Ordinance Nos. 2011-05 and 2011-06 were unconstitutional;

WHEREAS the Board of Commissioners held a public hearing on February 28, 2012, to consider the issues remanded to Umatilla County by the Land Use Board of Appeals, and to implement the decision.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following amendment to the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances, to comply with the decision of the Land Use Board of Appeals (Strikethrough text is deleted; Underlined/Italicized text is added):

**§152.616 STANDARDS FOR REVIEW OF
CONDITIONAL USES AND LAND USE
DECISIONS.**

(HHH) Commercial Wind Power Generation Facility.

(6) Standards/Criteria of Approval The following requirements and restrictions apply to the siting of a Wind Power Generation Facility:

Setbacks. The minimum setback shall be a distance of not less than the following:

(1) From a turbine tower to a city urban growth boundary (UGB) shall be two miles; ~~unless a city council action authorizes a lesser setback.~~ The measurement of the setback is from the centerline of a turbine tower to the edge of the UGB that was adopted by the city as of the date the application was deemed complete.

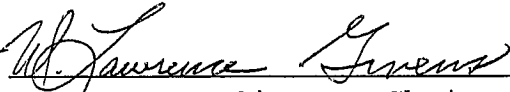
(2) From turbine tower to land zoned Unincorporated Community (UC) shall be 1 mile; ~~unless the landowner of the land zoned UC authorizes by written waiver a lesser setback and the waiver is recorded with the county deed records.~~

(3) From a turbine tower to a rural residence shall be 2 miles; ~~unless the landowner of the rural residence authorizes by written waiver of a lesser setback and the waiver is recorded with the county deed records.~~ For purposes of this section, a "rural residence" is defined as a legal, conforming dwelling existing on the parcel at the time an application is deemed complete. The measurement of the setback is from the centerline of the turbine tower to the centerpoint of the residence.

FURTHER by unanimous vote of those present, the Board of Commissioners deems this Ordinance necessary for the immediate preservation of public peace, health, and safety; therefore, it is adjudged and decreed that an emergency does exist in the case of this Ordinance and it shall be in full force and effect from and after its adoption.

DATED this 28th day of February, 2012.


UMATILLA COUNTY BOARD OF COMMISSIONERS



W. Lawrence Givens, Chair



Dennis D. Doherty, Commissioner



William S. Hansell, Commissioner

ATTEST:
OFFICE OF COUNTY RECORDS



Records Officer

