

ARTICLE 20 - SPECIAL USES AND PLANNED UNIT DEVELOPMENTS

(As Amended 9/20/1999 via BOS Resolution #96-99; 9/18/2000 via BOS Resolution #78-00; 12/10/2001 via BOS Resolution #101-01; 3/11/02 via BOS Resolution #16-02; 9/8/02 via BOS Resolution #76-02; 2/7/05 via BOS Resolution #09-05; 4/18/05 via BOS Resolution #31-05; 1/17/06 via BOS Resolution #02-06; 11/10/09 via BOS Ordinance #03-09; 3/23/10 via BOS Ordinance #03-10; 10/26/10 via BOS Ordinance #06-10; 8/23/11 via Ordinance #04-11, 12/2/19 via BOS Resolution 29-19)

Section 2001 - Special Uses.

The Board of Supervisors may permit as a Special Use the following uses in zoning districts from which they are otherwise prohibited by this Ordinance, unless any such use is further prohibited by this Article.

1. Airports, heliports and other landing areas.
2. Amusement parks, drive-in or outdoor theaters.
3. Automobile repair shops and garages provided all operations are conducted within a completely enclosed building.
4. Beauty and Barber Shops, Nail Parlors.
5. Bed and Breakfasts.
6. Cemeteries and mausoleums.
7. Circus and carnival grounds having permanent facilities.
8. Contractor's Yard – Provided that no special use permit shall be granted unless the parcel is in the A-General, rural or residential zoning district, and provided further that the area used as a storage area for materials or supplies shall be screened from adjacent properties by natural or man-made means at least six (6) feet in height.
9. Crushing facilities in the Rural (RU), A-General and Commercial-Residential Zoning Districts, subject to the submission of a performance bond for clean-up with a time limit not to exceed two (2) years.
10. Day Care Facilities and Nurseries accommodating seven or more clients.
11. Development or extraction of earth projects, clay, coal, gas, gravel, minerals, sand, stone and topsoil.
12. Dormitories, commercial.
13. Electric power generating plants and facilities, including but not limited to those operated by nuclear or fossil fuel or solar, wind or geothermal energy.

14. Experimental and proving grounds.
15. Feed lots, commercial; dairy farms, the raising of fur bearing animals, or the raising or feeding of animals that could create noise, odors, dust, or pose a problem of health or sanitation to neighboring properties if within six hundred (600) feet of a property line, will be subject to periodic inspection to assure compliance.
16. Flammables, propane, butane, etc, the retail distribution of, with the storage of 500 gallons or more above ground.
17. Guest ranches, providing the guest ranch is under unified ownership and management.
18. Institutional Residential and other Group Homes.
19. Kennel, as defined in Article 30, provided that the kennel and any outdoor exercise area or other outdoor area is completely fenced and set back from all lot lines in accordance with the underlying zoning district, and that the operation shall conform to the applicable requirements of the "Navajo County Animal Control Ordinance".
20. Lumber mills, saw mills, molding mills, planing mills with attendant facilities.
21. Manufactured Home Parks, subject to all the regulations applicable to Manufactured Home Parks as specified in the use regulations for the "R-3" zoning district.
22. Manufactured Home Subdivisions, provided that the individual lots in the subdivision shall be subject to the height, yard, intensity of use and parking regulations for the zoning district in which such lots are located, except that the number of Manufactured Homes (including rehabilitated Mobile Homes) or Recreational Vehicles in such subdivision shall be limited to one (1) on each individual lot.
23. Medical/Dental Offices with four (4) or less employees.
24. Plant nurseries and greenhouses for propagation, cultivation and wholesale distribution of plants produced on the premises, provided such uses including retail sales and open storage is limited to plants or packaged fertilizer, and the buildings and structures used in connection therewith set back from all lot lines a distance of not less than fifty (50) feet.
25. Privately and commercially operated recreational lakes, swimming pools and tennis courts.
26. Public riding stables and boarding stables provided that the buildings housing animals be set back from all lot lines a distance of not less than one hundred (100) feet.
27. Race tracks.

28. Recreational and Family Camps including ancillary support services in the Rural (RU) and A-General Zoning Districts.
29. Recreational Vehicle parks, subject to all the regulations applicable to RV parks, specified in the use regulations for the "R-3" zoning district.
30. Recycling facilities in the Rural (RU), A-General and Commercial-Residential Zoning Districts.
31. Resort hotels, provided that there are not outside entrances for business purposes.
32. Sport arenas.
33. Storage of manufactured homes, travel trailers, boats and aircraft.
34. Television, wireless towers, and radio transmitter towers and stations, subject to approval by Federal Regulatory Agencies.
35. Warehousing and storage, mini-storage, including outdoor storage, i.e., recreational and equipment storage, public utilities, but not including the warehousing and storage of explosives or junk.
36. Zoo.
37. Landfills with the following conditions: Landfills may be permitted in Navajo County in the rural, industrial and A-General districts only subject to securing a Special Use Permit and the development standards listed below. Landfills shall be classified according to the type(s) of waste(s) they may accept for disposal. Surface impoundments, including but not limited to evaporation ponds, settling ponds, storm water retention ponds, and sewage treatment ponds are not landfills. Fill material approved by the Building Department consisting primarily of inert materials as defined by the State of Arizona and intended for construction grading may be exempt from this section subject to receiving a grading permit from the Building Department.

Section 2002 - General Conditions Applicable To All Special Use Permits

1. An application for a Special Use Permit, together with the applicable fee as established from time to time by the Board of Supervisors, shall be submitted to the Director. The application shall be accompanied by plans together with a supporting statement as to the proposed use. The plans and supporting statement shall be in sufficient detail to enable the Director, the Commission and the Board of Supervisors to evaluate the nature and scope of the proposed use and its effects on the public health, safety and general welfare. The application plans and supporting statement shall be considered by the Commission at a public hearing. Notice and procedure for said hearing shall conform to the requirements of Article 29 hereof.

2. The Commission shall transmit its recommendation, together with the plans, and supporting statement, to the Board of Supervisors for consideration and public hearing. Notice and procedure for said hearing shall conform to the requirements of Article 29 hereof.
3. In making its recommendation, the Commission shall consider the compatibility of the proposed use with the permissible uses in the zoning district in which the property is located, the current and likely future uses of properties in the vicinity of the proposed use, and the effects of the proposed use on the public health, safety and general welfare.
4. The recommendation of the Commission may include reasonable requirements and stipulations as deemed necessary to achieve the purposes of this Ordinance and promote the public health, safety and general welfare, including but not limited to the following:
 - a. Yard and open spaces.
 - b. Fences and walls, or other screening.
 - c. Surfacing of parking areas and specifications therefore.
 - d. Street improvements, including provision of service roads or alleys when practical and necessary.
 - e. Regulation of points of vehicular ingress and egress.
 - f. Regulation of signs.
 - g. Landscaping and maintenance thereof.
 - h. Maintenance of grounds.
 - i. Control of noise, vibration, odor and other potentially dangerous or objectionable elements.
 - j. Specific measures to protect adjacent and nearby properties against any adverse, detrimental or objectionable effects associated with the proposed use.
 - k. Technical studies to ensure that the public health, safety and general welfare will not be adversely affected.
 - l. Such other requirements and stipulations as may reasonably be required to ensure that the public health, safety and general welfare will not be adversely affected.
 - m. Time limit within which the proposed use shall be developed, together with provisions for review and possible revocation of the Special Use Permit if development does not proceed diligently.
5. A Special Use Permit may run with the land or be granted for a specific time period. The procedure to extend a permit shall be the same as the procedure for obtaining a permit; provided, however, that any request to extend a permit shall be made no later than 60 days before the expiration of the permit and provided further that an extension of not more than 90 days may be summarily granted by the Board of Supervisors without notice or hearings as otherwise required by Article 29 hereof
6. An application to amend a Special Use Permit shall be processed in the same manner as an application to obtain a Special Use Permit; provided, however, that changes to site plans or to stipulations that do not alter the nature or scope of the approved use may summarily approved be by the Board of Supervisors without notice or hearings as otherwise required by Article 29 hereof.

Section 2003 - Special Requirements Applicable To Landfills.

Applications for a Special Use Permit for landfills must be submitted and reviewed in accordance with Article 20. In addition, the following information must be provided:

1. A listing of all applicable Federal, State and local regulations that govern the proposed use.
2. A proposed "Health and Safety Plan" (Plan) as described in Appendix A of this ordinance.
3. The method(s) of land-filling proposed.
4. The proposed hours of operation and delivery of waste shipments.
5. The petitioner must provide the documents necessary to support compliance with Section 2001.28 & 2002.

Section 2004 - Waste Classifications.

1. "Class I" Waste is a hazardous waste as defined in 40 CFR 261 and amendments thereto.
2. "Class II" Waste consists of or contains chemically or biologically decomposable material, but does not include Class I waste. Class II waste includes, but is not limited to, the following: municipal and industrial solid waste, dead animals, sewage sludge and agricultural wastes.
3. "Class III" Waste consists of non-water soluble, non-decomposable inert solids. Class III waste includes, but is not limited to the following: construction and demolition wastes, such as earth, rock, concrete, asphalt paving fragments, inert plastics, plasterboard, and demolition material containing minor amounts of wood and metals, vehicle tires, industrial wastes such as clay products, glass inert slags, asbestos, inert tailings and inert rubber scrap.

Section 2006 - Landfill Classifications.

Section 2005 - General Conditions Applicable to Landfills.

The siting, establishment and operation of a landfill must comply with all applicable existing and future rules and regulations adopted by the Environmental Protection Agency (EPA) and the Arizona Department of Environmental Quality (ADEQ), or their successor agencies, including the Aquifer Protection Permit Rules adopted by ADEQ and in effect at the time of the review of the application. As a prerequisite to approval of the application for this Special Use, the Board of Supervisors may attach the following conditions:

1. That the Health and Safety Plan may be required to go beyond State and Federal requirements and include State and Federal or other recommendations for the handling of certain materials.

2. That there is a plan for the future use of the property upon cessation of land-filling activities, and that such re-use plan of the property is not inconsistent with adopted long range plans for the area.
3. That the plan includes the creation of an escrowed sinking fund or other financial assurance acceptable to Navajo County and/or ADEQ to finance the future use of the property, such system to be funded while the property is still being used for land-filling and to be established in annual increments roughly equivalent to the development phase for the use of the site. The funding system must begin at the time of the development of the landfill. A sinking fund must be escrowed at least annually with the first annual payment thereto beginning in the first fiscal year of land-filling operations.
4. That the landfill is visually screened from adjacent property and provides a buffer zone for protection of adjacent properties. Site specific conditions such as topography, elevation, surrounding land use or screening on adjoining properties may allow the Board to mitigate the requirements for screening and buffer zones.
5. The landfill site must be maintained in a neat condition and fencing must be installed where necessary to catch blowing material. Additional fencing may be required on a case by case basis to provide security around active waste disposal cells.
6. Access roads and driveways to the site must be all-weather roads. Access roads must connect directly to an arterial highway and will not require the use of any "street, collector" (servicing residential areas), or "streets, residential" as defined in the Navajo County Subdivision Regulations in effect at the time of this amendment.
7. Sanitary toilet facilities, as recommended by the Navajo County Health Department, must be provided for employees at the landfill site.
8. That the landfill operator provides a list of generators and/or copies of waste manifests as may be required by EPA or ADEQ, for all material disposed in the landfill. This list shall be provided to Navajo County on a semi-annual basis.
9. Scavenging will not be allowed on the landfill site.
10. That the applicant will notify the Board of any changes requested or agreed to by ADEQ or the EPA, after the Special Use Permit has been granted by the Board. Such changes may require modification of the Special Use Permit as specified in this Article.
11. That the applicant will file, with the Board, a final copy of all permits issued for the landfill by ADEQ or the EPA.
12. All landfills must have a "Notice of Landfill Use" recorded against the title of the land that identifies all lands to be used for land-filling purposes. A landfill

site plan and restrictions, if any, against future uses may also be required to be recorded. These documents must be recorded by a date specified as a condition by the Board.

13. The Board may waive or modify any of the requirements listed in 2005-2 through 2005-10.

Section 2006 – Landfill Classifications.

1. Class I.

Class I landfills may accept Class I waste as defined in Section 2004 for disposal.

Class II and III wastes may also be placed in Class I landfills at the discretion of the landfill operator, unless otherwise restricted by Navajo County or ADEQ.

2. Class II.

Class II landfills may accept Class II waste as defined in Section 2004 for disposal.

Class II landfills may accept Class III wastes, at the discretion of the landfill operator, unless otherwise restricted by Navajo County or ADEQ. Class II landfills SHALL NOT accept Class I wastes for disposal.

3. Class III.

Class III landfills may accept Class III waste as defined in Section 2004 for disposal.

Class I wastes SHALL NOT be placed in Class III landfills. Class III landfills may accept specific, pre-approved Class II wastes with prior written consent from the Board and ADEQ.

Section 2007 - Residential Planned Unit Development.

1. The purpose of the Residential Planned Unit Development is to provide for the large-scale residential development wherein variation in the lot size, dwelling types and open space about them is warranted due to topography or other considerations.
2. The owners or authorized agent of a site comprising an area of not less than ten (10) acres may submit to the Board of Supervisors a plan to develop that entire site as a Residential Planned Unit Development.
3. The plan shall be referred to the Commission for its review, report and for public hearing. Notice and procedure for public hearing shall conform to the procedures prescribed in Article 29 hereof.
4. The Commission having held public hearing shall then present its report and

recommendation and the plan to the Board of Supervisors for consideration and public hearing. Notice and procedure for public sharing shall conform to procedures prescribed in Article 29 hereof.

5. The recommendation of the Commission shall include the reasons for approval or disapproval of the plan, and if recommended for approval specific evidence and facts showing that the plan meets with the following:
 - a. That the buildings shall be used only for single-family dwellings, two-family dwellings or multiple-family dwellings, customary accessory uses such as off-street parking and community facilities.
 - b. That the average lot area per dwelling unit, exclusive of the area occupied by streets, shall not be less than that required by the zoning district regulation otherwise applicable to the site.
 - c. That the proposed Residential Planned Unit Development will not adversely affect adjacent property or the permitted use thereof.
6. The recommendation of the Commission may include reasonable conditions as deemed necessary to promote the purpose of this Ordinance including but not limited to the following:
 - a. Yard and open spaces.
 - b. Fences and walls.
 - c. Regulation of points of vehicular ingress and egress.
 - d. Regulation of signs.
 - e. Landscaping and maintenance thereof.
 - f. Maintenance of grounds.
 - g. Time limit within which the proposed Residential Planned Unit Development shall be developed.
7. Building permits that are in accordance with the approved plan may be issued even though the use of land and the location of the buildings to be erected do not conform to the zoning district regulations otherwise applicable to the site.
8. The establishment of the Residential Planned Unit Development may be accomplished in any Rural or Residential zoning district and not in any other zoning district.
9. Amendments shall be processed in the same manner as the initial plan to develop the site as a Residential Planned Unit Development.

Section 2008: Wind Energy Generation Facilities

1. Introduction and purpose

The purpose of this section is to:

- Specify Special Use Permit application requirements for the development of utility-scale wind energy projects with actual or planned generating capacity of at least one megawatt.
- Establish standards for the permitting, construction, operation, maintenance and decommissioning of utility-scale wind energy generation facilities.

This section does not apply to personal or institutional wind energy generation equipment that is intended to generate electricity or heat water for use primarily on the property on which the equipment is located, or to facilities with an actual or planned generating capacity of less than one megawatt.

2. Definitions

The following terms are defined as follows for purposes of this section. Other definitions may be found in Article 30.

SUP: A Special Use Permit approved by the Board of Supervisors pursuant to this section and the other applicable provisions of this ordinance.

Project boundary: The boundary of a Wind Energy Generation facility project as set forth in the project site plan and incorporated into the SUP.

Setback distance: The distance from the center of the wind turbine electrical generator tower foundation to the nearest property line, edge of a public road right-of-way or railroad right-of-way, third-party transmission line, above-ground pipeline, communication tower, other structure or other boundary established by Navajo County.

Wind Energy Generation facility: An energy generation facility using wind technology and consisting of one or more wind turbines and accessory structures and buildings, including substations, anemometers and associated electrical infrastructure, with an actual or planned generating capacity of at least one megawatt. The term does not include stand-alone wind electricity generating systems primarily for on-site residential, institutional, commercial or agricultural use which may feed residual power into the electrical grid as defined by the Arizona Corporation Commission.

Wind turbines (or towers): A wind energy system that uses the wind to turn a set of aerodynamic blades or devices attached to an electric generator or turbine. The term does not include small wind turbines used primarily to generate electricity for on-site residential, institutional, commercial or agricultural use.

3. Zoning Districts in which allowed / SUP required

Wind Energy Generation facilities are allowed only in the A-General, Rural and Industrial Zoning Districts, subject to securing an SUP and to the applicable site development standards set forth herein. The SUP application shall comply with the submittal application requirements

of Navajo County for the particular project.

4. General development standards for Wind Energy Generation facilities

- a. A minimum of on-site roadways shall be constructed. Temporary access roads and excess roadway widths for initial equipment/facility installation shall be re-vegetated, using native species plants and seeds, to a pre-project condition (to the extent reasonably possible) after completion of installation as a condition of the SUP. The applicant shall submit a plan of all proposed roads, temporary and permanent, for review and approval by the Public Works Department prior to the issuance of any grading or building permits.
- b. Electrical collector lines, which connect electricity generation devices to any substations, shall be placed underground except where (a) they cross sensitive biological or archaeological resources, such as canyons, wetlands or sites eligible for the national register, or rugged terrain that would prevent the use of underground trenching technology, (b) project terrain is found to be unsuitable, as determined by the applicant and confirmed by the County Engineer, or (c) burying the lines would violate applicable laws or regulations. In these cases, collector lines will be allowed above ground subject to approval by the Public Works Department. Utility lines serving the electricity or phone requirements of buildings shall be placed in accordance with the utility's easement requirements.
- c. Wind Energy Generation projects shall include fire control and prevention measures as outlined in the Uniform Fire Code and as required by the local Fire District or State Fire Marshall.
- d. Wind Energy Generation projects shall comply with applicable Federal Aviation Administration (FAA) lighting, navigation and other requirements. Lighting shall be the minimum required by FAA regulations or other public safety considerations. The use of low-intensity, red pulsating/blinking lighting is preferred so long as consistent with FAA regulations. The use of strobes and strobe-type lighting for nighttime use is prohibited unless specifically required by the FAA. All lighting shall be in compliance with the Navajo County Lighting Ordinance.
- e. Wind Energy Generation facility projects shall comply with applicable Federal Communication Commission (FCC) requirements, including those applicable to microwave communication links in the vicinity. Wind Energy Generation facilities shall minimize and mitigate telecommunication interference (electromagnetic fields and communications interference generated by the project). No interference with public communication systems shall be allowed.
- f. Towers, generator housings, hubs and blades shall be painted a non-reflective, unobtrusive color which shall complement the surrounding landscape, including but not limited to white, off-white, beige or tan. The design of other buildings and other structures shall, to the extent reasonably feasible and consistent with public safety, use materials, colors, textures, screening and landscaping that will blend the facility into the existing environment
- g. The applicant shall avoid locating turbines in mountain passes or draws or on cliff edges in order to minimize avian and/or bat collisions when wildlife studies show that the project would pose a significant risk to avian and/or bat populations. Towers and nacelles shall

be designed so as not to attract nesting birds or serve as perches for raptors. The SUP holder shall refer to the Arizona Game and Fish Department's and the U.S. Fish and Wildlife Services' wind guidelines that have been developed to aid the project proponents in reducing impacts to wildlife.

- h. A letter from the Arizona Game and Fish Department will be required prior to scheduling of the SUP application for a hearing before the Planning and Zoning Commission, detailing the agency's comments and/or recommendations for the project. Pre-construction and post-construction wildlife studies shall be developed and performed with consideration given to the Arizona Game and Fish Department and U.S. Fish and Wildlife Service guidelines. Any wildlife impacts discovered during formal post-construction surveys shall be identified in the formal annual report submitted to the Arizona Game and Fish Department and U.S. Fish and Wildlife Service, with a copy to the Public Works Department. The formal annual report shall include avian and bat deaths due to the project.
- i. All wind towers must be designed and constructed, to the greatest extent feasible, so as to prevent interior/exterior access by the public and shall have interior ladders and locking doors.
- j. Experimental or prototype wind towers are prohibited. All wind towers must be standard production models commercially available from the manufacturer.
- k. Wind turbine designs with blades downwind of the tower are prohibited.
- l. For construction and permit purposes, all wind towers shall conform to the regulations for the applicable seismic zone of the building code.
- m. Documentation confirming an interconnection agreement and a power purchase agreement (or equivalent agreements) shall be required prior to issuance of any building or construction permits.
- n. All necessary building, grading and other permits shall be obtained from the Public Works Department prior to any site preparation or construction. All facilities must be designed and constructed in compliance with all applicable federal, state and local development and building and safety codes.
- o. No building or structure may be constructed or occupied prior to full compliance with all applicable Public Works Department requirements, including but not limited to requirements concerning grading and drainage plans, flood control requirements, and the issuance of building and other permits for the proposed structures.
- p. Floodplain Use Permits (where required) for any development in a floodplain shall be obtained through the Flood Control District prior to any such development.
- q. All wind towers and other structures shall comply with all applicable county, state and federal laws, ordinances and regulations.
- r. Signs associated with the project are limited to one project identification, information, interpretive and address sign of not more than 24 square feet located on the project site at each point of ingress and egress. No other signs shall be installed except for required

warning and directional signs. Limited logos and/or manufacturer names shall be permitted on the generator housing or hub. No other advertisements, prominent logos, or other prominent messages are allowed on any tower, blade, generator housing, hub or any other part of any structure. Signage shall not be used for advertising. Prior to installation of any signs, the SUP holder shall obtain sign permits from the Public Works Department for all signs for which permits are required.

- s. Project fencing, if applicable, shall include minimum 18 inch by 18 inch signs warning of the presence of high voltage. Such signs shall be located a maximum of 300 feet apart and at all points of site ingress and egress. Projects without fencing shall place such warning signs on each transformer building and all points of ingress and egress. Project fencing, if applicable, shall be a minimum of six feet and maximum of eight feet in height (excluding barbed wire or cyclone wire fencing, which is permissible).
- t. Navajo County reserves the right to contract with a qualified third-party consultant for the review and evaluation of the proposed project and any of the application materials, particularly the sound study. The selection of a consultant shall be made in consultation with the applicant, with a mutually agreed-upon "not to exceed" contract amount prior to final selection of the consultant. The cost for any such review shall be reimbursed to Navajo County by the applicant before any building permit is issued. Additionally, and if deemed necessary, the reasonable cost for any third-party review(s) of any long-term monitoring or response to complaints or operational changes shall be reimbursed to Navajo County by the SUP holder within 30 days after written demand by the County. In such cases Navajo County shall provide written notice of the use of a third-party consultant to the applicant prior to such use.
- u. A decommissioning plan shall be required and shall address the removal of the facilities and the restoration of the site upon a revocation of the SUP pursuant to paragraph 6 of this Section 2008 or the expiration of the SUP. Removal of the facilities and restoration of the site shall mean that all safety hazards created by the installation and operation of the Wind Energy Generation facility shall be removed and the site shall be restored to its pre-project condition to the extent reasonably possible, including the removal of foundations and footings to 36" below grade and the re-vegetation of any roads created or other areas graded or disturbed during the project. The SUP holder shall maintain a decommissioning bond in the amount of the full decommissioning cost at the end of the anticipated life of the project, net of salvage value, as estimated by a Professional Engineer registered in the State of Arizona. Said bond shall be reviewed and approved as to form, substance and amount by the Public Works Department. The engineer's estimate of decommissioning cost shall be renewed no less than every five years by a Professional Engineer registered in the State of Arizona, and a copy of each renewed estimate shall be provided to the Public Works Department for review and approval. The decommissioning bond shall be adjusted in accordance with the renewed cost estimate within 30 days after approval by the Public Works Department. The SUP holder shall provide proof that the bond is in place no later than the date of the commencement of construction. Bond(s) shall be provided for the benefit of Navajo County and all private lessors on whose land any portion of the project will be located. This requirement shall be a condition of approval of the SUP. The Board of Supervisors, upon the recommendation of the County Attorney and the Director of Public Works, may approve variations from the requirements of this paragraph if warranted by the particular circumstances of a project.
- v. Noise requirements and mitigation measures:

(1) Audible sound limits:

- A. Audible noise due to project operations shall not exceed the greater of: (a) 45 dBA $L_{Aeq,10}$; or, (b) the measured background, $L_{A90,10}$ plus 5 dB, as measured at the exterior at any legal residence, school, library or hospital in existence at the time of approval of the SUP.
- B. If sound levels resulting from a proposed facility exceed the criteria specified above, a waiver may be granted by the Board of Supervisors after review and recommendation by the Planning and Zoning Commission, provided that the following has been accomplished:
 - 1. An irrevocable written consent (or sound waiver easement) has been obtained from each affected property owner, stating that the owner is aware of the proposed facility and the sound limitations imposed by this section, that consent is granted to allow sound levels to exceed the maximum limits specified herein, and that such consent will be memorialized in a notice recorded with the Navajo County Recorder to notify future owners of the affected property that sound levels may exceed the sound levels specified herein. The consent shall include a legal description of the affected property. A copy of each such consent on which the SUP holder relies shall be submitted prior to approval of the SUP.

- (2) All wind turbine operations shall meet the operational low-frequency noise requirements applicable to wind turbines as specified in Noise Requirement Guidelines adopted, published and amended from time to time by the Board of Supervisors.

(3) Background and Compliance Testing:

The requirements of subparagraph (1) above require that background (pre-development) sound levels be properly assessed, that sound levels be forecast in advance of SUP approval, and that, once a project commences operation, sound levels again be assessed as part of compliance-period assessment. Before an SUP is issued, the applicant's independent consultant shall complete a sound evaluation by determining existing (pre-project) background sound levels and forecasting ambient sound levels anticipated upon completion of the facility. The evaluation shall address facility aging and planned or probable modifications. If the project is permitted and constructed, when it is in operation the SUP holder's independent consultant shall complete a compliance-period sound evaluation. Background and post-construction compliance sound measurements shall comply with Noise Requirement Guidelines adopted, published and amended from time to time by the Board of Supervisors. If there is any conflict between the requirements of this ordinance and the requirements of such guidelines, the more stringent requirement(s) shall control.

For phased / staged development, background sound levels shall be determined before the initial phase of the project. For a situation in which multiple developments by the same or multiple developers are expected in an area, the same applies.

- (4) During the first three months of facility operation and more specifically during a period

of normal full production operations, the SUP holder shall verify compliance with subparagraph (1) above utilizing an independent consultant. If operational sound is found to exceed the limits specified in subparagraph (1) above, the SUP holder shall institute remedies to achieve compliance with the applicable limits, or submit a consent from each owner of an affected property in accordance with subparagraph v.(1).B above. During the remedy period the SUP holder shall identify and remove from service the equipment responsible for the excessive sound until the problem can be cured or mitigated. Navajo County staff may require additional compliance testing when deemed appropriate.

(5) Plans for determining background sound levels and for modeling/simulation shall be submitted by the applicant for the Public Works Department's review and approval in advance of the work.

w. **Setbacks.** The minimum safety setback distance, location and spacing requirements for Wind Energy Generation facilities shall be as follows. As used herein, "total tower height" means the height from grade to the top of the structure, including the uppermost extension of any blade (i.e., "straight up").

(1) Wind towers shall be placed in accordance with the greater of the applicable setback and location requirements set forth in paragraphs A, B and C below:

A. Such that the sound standards established in subparagraph 4.v of this Section 2008 will not be exceeded.

B. Setbacks related to areas outside the project boundary:

i. **Setback to existing residence:** Individual wind towers shall be placed within the project boundary at least ½-mile (2,640 feet) from an existing residence that is located outside of the project boundary.

ii. **Setback to adjacent privately-owned land that is not zoned Industrial (I-1 or I-2):**

a. **Parcels greater than 2.5 acres in size:** Individual wind towers shall be placed within the project boundary at least ¼-mile (1,320 feet) or 150% of the total tower height (whichever is greater) from the common property line with such parcels.

b. **Parcels 2.5 acres or smaller in size:** Individual wind towers shall be placed within the project boundary at least ½-mile (2,640 feet) or 150% of the total tower height (whichever is greater) from the common property line with such parcels.

Adjacent parcel sizes as set forth in paragraphs a-d above shall be determined as of the effective date of this Section 2008.

iii. **All other adjacent land not included in one of the foregoing categories:** Individual wind towers shall be placed at least 1.1 times (110%) the total tower height from the project boundary.

- C. Setbacks related to areas within or outside the project boundary:
- i. Roadway (public or publicly-maintained): Individual wind towers shall be set back from any public or publicly-maintained roadway (as measured to the nearest edge of the right-of-way) at least ¼-mile (1,320 feet).
 - ii. Railways, utility lines, interior phase lines and structures: Individual wind towers shall be set back from any railway (as measured to the nearest edge of the right-of-way), or from any utility line (above or below ground - as measured to the nearest edge of the utility easement), or from any interior phase line or structure (regardless of use), at least 1.5 times (150%) the total tower height.
- (2) The minimum setbacks from the project boundary for all non-tower uses and structures (such as administrative buildings, meteorological or anemometer towers, maintenance buildings, operations buildings, transformers, etc.) shall conform to the setback requirements for the Zoning District in which the use or structure is located.
- (3) The Board of Supervisors may approve a reduction in the setback requirements set forth above in accordance with any or a combination of the following circumstances:
- A. The project shares a common property line with another approved Wind Energy Generation facility.
 - B. An irrevocable written consent from an affected property owner has been obtained, stating that the owner is aware of the proposed facility and the setback requirements imposed by this section, that consent is granted to allow lesser setbacks than those specified herein, and that such consent will be memorialized in a notice recorded with the Navajo County Recorder to notify future owners of the subject property that setbacks are less than those specified herein.
 - C. An adjacent property owner who is also pursuing the development of a Wind Energy Generation facility or similar use has filed a letter of consent to the proposed setback reduction with the Public Works Department.
 - D. The parcel on which the project is located and an adjacent parcel are held in common ownership.
 - E. The current use of an adjacent property generates sound in excess of that permissible for the Wind Energy Generation facility under the terms of this section.
- (4) Setback areas may be used for access within the development but are otherwise to remain in their current vegetative state.

5. Use Of SUP, Terms and Conditions

- a. Any Wind Energy Generation facility that is granted SUP shall be developed in accordance with the schedule for development and stipulations set forth in the SUP.
- b. SUP for a Wind Energy Generation facility shall be valid for the anticipated useful life of the project.

- c. SUP for a Wind Energy Generation facility shall be granted in the name of the applicant and may be transferred or assigned to a new holder only with the written approval of the Board of Supervisors, following a public hearing. The new holder shall only be bound to agree to all existing conditions and shall provide adequate assurances to demonstrate that the new holder has the financial ability to fulfill the obligations as specified in the SUP.

6. SUP Suspension and Revocation

- a. Any SUP issued pursuant to this section may be suspended or revoked in whole or part by the Board of Supervisors for material non-compliance with the requirements of this section or the stipulations set forth in the SUP. SUP shall be subject to suspension or revocation at a duly noticed public hearing only if the SUP holder has failed to cure the material non-compliance after no less than 30 days' written notice of such non-compliance from the Director of Public Works.
- b. If a Wind Energy Generation facility becomes unsafe or inoperable, the SUP is likewise subject to suspension or revocation by the Board of Supervisors as follows:
 - (1) An "inoperable Wind Energy Generation facility" is one that does not generate a significant amount of electricity for 180 consecutive days, unless such non-generation is due to an act of nature, declared emergency or other cause beyond the reasonable control of the SUP holder or unless the SUP holder demonstrates that modernization, rebuilding or repairs are in progress or are planned and will be diligently completed.
 - (2) An "unsafe Wind Energy Generation facility" is one that has been found by a state or federal administrative agency or a court of competent jurisdiction to have materially violated applicable health or safety laws, unless the SUP holder demonstrates that measures to cure such violations are in progress or are planned and will be diligently completed.
 - (3) Every unsafe or inoperable Wind Energy Generation facility is hereby declared to be a public nuisance per se which shall be subject to abatement by all available legal and equitable remedies.
 - (4) Upon a complaint by the Director of Public Works that a Wind Energy Generation facility is inoperable or unsafe, the Board of Supervisors shall convene a public hearing at the earliest possible date after written notice to the SUP holder. Pending a final determination that the facility is inoperable or unsafe, the Board may suspend the SUP in whole or part or impose such conditions as may be appropriate to protect the public health, safety and welfare. Upon a final determination that the facility is inoperable or unsafe, the Board may suspend or revoke the SUP in whole or part or impose such conditions as may be appropriate to protect the public health, safety and welfare.
- c. No later than 30 days after the revocation or expiration of the SUP, the decommissioning plan required by subparagraph 4.u of this Section 2008 shall be implemented and decommissioning shall proceed diligently to completion.

7. Joint Agency Approvals

- a.** If the applicant is also applying to the State of Arizona, U.S. Bureau of Land Management (BLM) Forest Service (USFS) or other federal agency for a right-of-way grant, lease or any other form of authorization or approval for a wind energy project in Navajo County to be located in whole or part on land managed by the State, BLM, USFS or other federal agency, or the applicant is also applying to the Western Area Power Administration or other federal power marketing agency (PMA) for an interconnection or transmission agreement for a wind energy project in Navajo County, then the applications may be jointly considered by the Planning and Zoning Commission and Board of Supervisors and the State, BLM, USFS, other federal agency or PMA (including without limitation joint hearings and coordinated application and mitigation requirements), and any and all findings, reports, studies, statements, assessments or analyses issued, approved or adopted by the State, BLM, USFS, other federal agency or PMA, including any mitigation measures required by any of those agencies, may be considered and adopted by the Planning and Zoning Commission and the Board of Supervisors in connection with the SUP application.
- b.** This Section 2008 does not purport to regulate wind energy generation projects on state or federal land except insofar as state or federal agencies may require compliance with Navajo County zoning requirements as part of their own application processes.
- c.** In the event of any inconsistency between any requirement of this Section 2008 and any requirement of state or federal law, now or in the future, the state or federal requirement shall control and this section shall be interpreted and applied consistently therewith.

8. Public Outreach.

As part of the SUP review and approval process, and to ensure adequate public outreach, the applicant shall do the following:

- a.** Provide the following:
 - (1)** A list of all property owners of record within one mile of the project boundary, with current contact information (address and telephone number).
 - (2)** A list of all property owners of record within 300 feet of each access route to the project from a public roadway, as well as within 300 feet of each public roadway that requires any improvements in connection with the project, with current contact information (address and telephone number).
 - (3)** Notice by first class mail to all property owners listed under subparagraphs (1) and (2) above, such notice to include a narrative description of the project, identification of transportation routes, vicinity map showing surrounding properties, and a layout of the proposed facility and accessory buildings indicating setback distances to property lines.
 - (4)** Notice by first class mail to all incorporated communities within three miles of the project boundary.
- b.** Schedule, publicize and conduct at least two public meetings (in collaboration with

neighborhood groups and property owner associations, where available) in the project area at least 30 days before the Planning and Zoning Commission hearing. Public Works staff is available to suggest to the applicant potential meeting sites and publicity measures.

Feedback cards shall be provided to attendees and tabulated results shall be submitted to the Public Works Department within five days after each meeting.

- c.** Establish a web site or “.ftp” site; linked to the Navajo County web site if possible, giving a summary of the project (site plan, context plan and summary description) and applicant contact information before holding the first public meeting as required above. Provide a mechanism on this site for the submission of public comments.
- d.** Provide a contact name and telephone hotline, the details of which are printed on a prominent sign at each project entrance and maintained on record with the Public Works Department, by which citizens can leave comments and complaints 24 hours a day for the life of the project. The SUP holder shall take all reasonable efforts to review and address (including returning the call when appropriate) all non-urgent messages within 72 hours and all urgent messages within 24 hours. Provide the County with a monthly summary of complaints and the manner in which they were addressed.