

short-term events such as utility outages and/or severe wind storms. The Planning Office will investigate reasonable complaints about noise.

C. **Interconnected Generator:** Small wind energy systems shall not be installed until the electric utility company has been informed of the customer's intent to install an interconnected generator and has approved the installation. Documentation of the contact with the utility company shall be provided to the Planning Department. Off-grid systems shall be exempt from this requirement.

D. **New Technology:** The Planning Office may waive any of the provisions of this section if the applicant is using the new technology that alleviates the issues addressed by these regulations. The applicant must provide clear and convincing evidence that these issues have been addressed through the new technology. Documentation shall be provided with the application.

## **Section 12. Commercial Wind and Solar Energy Siting Regulations and Permitting.**

### **A. General Provisions:**

1. Title: These Regulations shall amend the Albany County Zoning Resolution, to be referred to as the Albany County Wind Energy and Solar Energy Siting Regulations.

2. Purpose: These regulations have been adopted for the following purposes:

a. To assure that any development and production of wind-generated and solar-generated electricity in Albany County is safe, effective, and that it will minimize impacts to wildlife;

b. To acknowledge that these facilities are clearly visible and cannot be hidden from view, however, design consideration should include minimizing the degradation of the visual character of the area;

c. To facilitate economic opportunities for local residents;

d. To promote the supply of wind energy and solar energy in support of Wyoming's goal of increasing energy production from renewable energy sources;

e. To be consistent with the Albany County Comprehensive Plan.

3. Authority: The Albany County Wind Energy and Solar Energy Siting Regulations are adopted under the authority granted by the following Wyoming Statutes:

Title 18 Counties, Chapter 5 Planning and Zoning, Article 2. Planning and Zoning Commission, W.S. §§18-5-201 to 18-5-207 and Article 5. Wind and Solar Energy Facilities W.S. §§18-5-501 to 18-5-513.

Title 9 Administration of the Government. Chapter 8 Land Use Planning, Article 1. General Provisions, W.S. §§9-8-101 to 9-8-302.

4. Severability. If any section or provision of the Albany County Wind and Solar Energy Siting Regulations is adjudged invalid for any reason, the adjudication does not affect any other section or provision of these Regulations. These Regulations are declared to be severable.

#### B. Definitions:

1. **Applicant:** The entity or person who submits to the County Planning Office ~~an~~ application for the siting of any Wind Energy Conversion System (WECS), WECS Project, Substation, or Solar Energy Facility Permit.
2. **Enlarge or Enlargement:** “Enlarge” or “enlargement” means adding additional wind turbines or solar arrays which are or energy capacity that is not permitted as part of an original permitting process. “Enlarge” or “enlargement” shall not include an improvement made to a permitted wind turbine that maintains the same surface space occupied by the structure that was previously permitted, regardless of the cost of the improvement.
3. **Financial Assurance:** Reasonable assurance, at the discretion of the Board of County Commissioners, from a credit worthy party that the costs associated with but not limited to construction, maintenance, consequences from abandonment or a failure to properly execute closure, post-closure costs are recoverable from applicant(s) under these Regulations.
4. **Operator:** The entity responsible for the day-to-day operation and maintenance of any WECS, WECS Project, Substation, or solar energy facility including any third party subcontractors.
5. **Owner:** The entity or entities with an equity interest in the WECS or solar energy facility, including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS) or solar energy facility; or (ii) any person holding a security interest in the WECS or solar energy facility solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure such person seeks to sell the WECS or solar energy facility at the earliest practicable date.
6. **Primary Structure:** Structures such as residences, commercial buildings, hospitals, and day care facilities. Primary structure excludes structures such as storage sheds and loafing sheds.
7. **Professional Engineer:** A qualified individual who is licensed as a professional engineer in the State of Wyoming.

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8. **Solar Energy Facility:** “Solar energy facility” means a commercial facility with a

rated power capacity of more than one-half (0.5) megawatt of electricity from solar power or the energy produced is not for personal use of the property owner that includes all lands where the owner or developer has rights to erect solar energy facilities, including lands for energy storage.

9. **Substation:** The apparatus that connects the electrical collection system of the WECS or solar energy facility and increases the voltage for connection with a utility's transmission line(s).

10. **Wind Energy Conversion System (WECS):** All necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower to the Substation and their support facilities, including transmission lines.

11. **Wind Energy Facility:** "Wind energy facility" means any wind powered electrical generation development consisting of an individual wind turbine or multiple wind turbines rated by the manufacturer to generate more than one and one-half (1.5) megawatt of electricity and includes all lands where the owner or developer has rights to erect wind turbines.

12. **WECS Project:** The WECSs and associated support facilities including, but not limited to, roads, substations, operation and maintenance buildings, and permanent met towers as specified in the siting approval application and including the project area as defined by the Owner.

13. **WECS Tower:** The support structure to which the nacelle and rotor are attached.

14. **WECS Tower Height:** The distance from the highest point of a vertical rotor blade to the top surface of the WECS foundation.

**C. Applicability:** These Regulations govern the siting of solar energy facilities and WECS, WECS Projects, and Substations that provide electricity to be sold to wholesale or retail markets, except that owners of WECS with an aggregate generating capacity of twenty five (25) kW or less who locate the WECS on their own property are not subject to these Regulations. WECS Towers shall be permitted in agricultural or industrial zoned districts. Approval of any WECS Project Permit or a Solar Energy Facility Permit does not preclude the need to obtain approved Zoning Certificates for individual structures, additions, and changes.

**D. Prohibition:** It is unlawful to locate, erect, construct, or enlarge a solar energy facility or a wind energy facility without first obtaining a WECS project permit or a Solar Energy Facility Permit from the Board of County Commissioners, see §§18-5-502(a). WECS

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projects shall be permitted by WECS project permits which allow each individual WECS

to be moved within the project boundary as the variables of the individual project dictate.

**E. Penalties:**

1. Any person violating subsection D above is liable for a civil penalty of not more than ten thousand (10,000) dollars for each violation. Each day of a continuing violation constitutes a separate offence.
2. Any wind turbine tower, wind generator, or solar facility erected in violation of this section shall subject the owner of the wind turbine tower, wind generator, or solar panels or array to a penalty of seven hundred and fifty (750) dollars per day for every tower or generator so erected.

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**F. Siting Approval Application:**

1. To obtain siting approval, the Applicant(s) must first submit a WECS Project Permit application, for a WECS Project, or a Solar Energy Facility Permit, for a solar energy facility, to the County Planning Office.
2. The WECS Project Permit application shall contain or be accompanied by the following information:
  - a. A Project Summary, including, to the extent available: (1) a general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer, type of WECSs, number of WECS, and name plate generating capacity of each WECS; the maximum height of the WECS Towers and maximum diameter of the WECS rotor; the general location of the project; and (2) a description of the Applicant, Owner and Operator, including their respective business structures;
  - b. The names, addresses, and phone numbers of the Applicants, Owners and Operators, and all property owners;
  - c. A site plan for the installation of a WECS Project showing the planned location of each WECS Tower, anchor bases (if any), Primary Structures, property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substations, electrical cabling from the WECS Tower to the Substations' ancillary equipment, transmission lines, and layout of all structures within the geographical boundaries of any applicable setback;
  - d. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of these regulations.

- e. Letters of consent to construct from all surface property owners on which the WECS Project is located; and

f. Any other information required by the County Planning Office as part of its zoning regulations.

3. The Solar Energy Facility Permit application shall contain or be accompanied by the following information:

a. A project summary, including, to the extent available: (1) a general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer, area of the entire project; and (2) a description of the Applicant, Owner and Operator, including their respective business structures;

b. The names, addresses, and phone numbers of the Applicants, Owners and Operators, and all property owners;

c. A site plan for the installation of a solar energy facility showing the solar arrays, Primary Structures, property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substations, electrical cabling from the solar array to the Substations' ancillary equipment, transmission lines, and layout of all structures within the geographical boundaries of any applicable setback;

d. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of these regulations.

e. Letters of consent to construct from all surface property owners on which the solar energy facility is located; and

f. Any other information required by the County Planning Office as part of its zoning regulations.

4. Application and Approval Process.

a. Application Submission. A completed application, signed by the owner(s) and applicant shall be submitted to the County Planning Office.

b. Certified list of adjacent property owners. A certified list of adjacent property owners shall be submitted to the Planning Office. Adjacent property owners are defined as within a five (5) mile radius of the WECS Project's exterior boundaries or within a one (1) mile radius of a proposed solar energy facility's exterior boundaries.

This list shall be obtained from the real estate records filed with the Albany County Clerk's Office or the assessment records on file with the Albany County Assessor's Office or the appropriate governing body. Use

of any information which is not up-to-date shall not invalidate this notice requirement. A title insurance company, a Professional Engineer, a

Professional Land Surveyor, or an attorney must certify the list.

c. Notice Requirements. The following notice requirements must be met. If all notice requirements are not timely given, a WECS project permit or a Solar Wind Energy Facility permit shall not be granted.

1) Mail: Applicant shall be responsible for mailing notice, by certified mail, to property owners identified on the certified list of property owners (see subsection b above), to Wyoming

Department of Transportation and to incorporated municipalities within ~~twenty (20)~~ miles of the WECS Project or solar energy facility. If the applicant is not the property owner of the proposed development site, notice shall be sent in the described manner to the property owner(s). Notice of pending proposals for development shall be given at least fourteen (14) days prior to the Planning and Zoning Commission meeting and at least twenty (20) days prior to the Board of County Commissioners public hearing. Right-of-way and easements shall not be considered as dividing properties.

Applicant shall submit to the Planning Office both an affidavit of mailing of the certified mail notice and copies of the signed return by recipients of the notice. The affidavit and the receipt copies shall be submitted to the Planning Office at least five (5) days prior to the respective Planning and Zoning Commission and Board of County Commissioners meetings.

2) Publication: the Planning Department shall propose and place in the local newspaper with largest circulation and on the county website a legal notice of the proposed development. The publication shall provide at least fourteen (14) days notice of a development proposal hearing before Planning and Zoning

Commission and twenty (20) days notice prior to the hearing before the Board of County Commissioners.

3) Signage: The applicant shall obtain at the time of the application submission, at least one (1) sign to be placed along and clearly visible from each publicly used road abutting the property. The sign shall state the property is being proposed for development and shall give contact information for the Planning Department. The sign(s) shall be posted at least fourteen (14) days prior to consideration of a development proposal before the Planning and

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Zoning Commission and the Board of County Commissioners.  
Applicant is responsible for return of the sign(s) in as good a

condition as when obtained, except for reasonable wear and tear.

4) Fee: Applicant shall remit a fee in the amount of one hundred (100) dollars to cover notice expenses at the time of filing a development proposal. This fee shall be in addition to the application filing fee.

5) Contents of Notice: All mailed and publication notices shall include a brief description of the solar energy facility or WECS Project including the name of the applicant, its location, the projected number and capacity of turbines (for WECS projects), and likely routes of ingress and egress and the likely location of electric transmission and other related facilities; contact information for the Planning Department; and invite the public to submit comments, identify the location, date, time and reviewing body for the public meeting or hearing.

6) Notice to record owners and claimants of mineral rights: Before submitting the application, record owners of mineral rights located on and under lands where the wind energy facility or the solar energy facility will be constructed shall be notified. The notice shall consist of a statement of the applicant's intention to construct the project, features of the project, a legal description of the boundaries of the project, locations where the application may be examined, and persons to contact for additional information. Notice shall be provided by first class mail to all record owners of mineral rights whose identity and current addresses are readily obtainable from publicly available documents and notice shall be published twice in a newspaper of general circulation and on the county website. Copies of the notice and any other pertinent documentation shall be provided to the Planning Office with the application and will be part of the record.

d. Planning and Zoning Review and Recommendation. The Planning and Zoning Commission will review the application at a regular or special meeting and make findings and certify a recommendation to the Board of County Commissioners.

e. Board of County Commissioners Review and Decision.

1) Review of Application for Completeness: Upon receipt of an application, the Board of County Commissioners shall conduct a

review of the application to determine completeness. If the application is determined to be incomplete by the Board, a list of deficiencies shall be provided to the applicant within thirty (30)

days of receipt of the application by the Board. The applicant will then have thirty (30) days to correct the deficiencies. Once an application is deemed complete, the applicant will be notified of the date and time of the required public hearing before the Board.

- 2) Public Hearing: The Board of County Commissioners shall hold a public hearing prior to acting on the application. The required public hearing must be held no less than forty-five (45) days and not more than sixty (60) days after determining that the application is complete. Written comments on the application shall be accepted for not less than forty-five (45) days after determining that the application is complete.
  - 3) Final Decision: In order to give final approval of the WECS Project Permit or the solar energy facility, the Board of County Commissioners must be able to make required findings of fact and conclusions of law, determining that each impact shall be mitigated, if deemed necessary, ensuring compatibility with adjacent uses. The Board of County Commissioners must make a decision to either approve or deny the application within forty-five (45) days of a public hearing. A copy of the decision shall be served upon the applicant.
- f. Findings Necessary for Approval. The Board of County Commissioners must make the following findings:
- 1) That the Applicant has provided such site plans and/or survey maps as required.
  - 2) That the proposed WECS Project or solar energy facility will not adversely affect the public health, safety, and welfare of the community in a statistically meaningful way.
  - 3) That the proposed WECS Project or solar energy facility shall not adversely affect the public interest by overburdening County services.
  - 4) That the applicant has adequately addressed the following impacts:
    - i. Economic or Social Impacts: Demonstrate that the applicant has addressed any complaints specified during the public comment period concerning any negative economic

or social impacts. In addition, other impacts identified by studies or reports for the project concerning economic or social impact shall be addressed.



- ii. Air Quality: Mitigate any air quality impact at or beyond the property line: fumes, smoke, odor, dust, heat, etc.
- iii. Water Quality: Mitigate any water quality impacts.
- iv. General Nuisances. Minimize light, glare, heat, noise, vibration, odors, fumes, smoke, or other nuisances generated by the WECS Project or solar energy facility that may affect off-site property owners whose residence is located at least one-half (.5) mile or five and one half (5.5) times the tower height, whichever is greater, from the facility.
- v. Soil Disturbance: Show that soil disturbance on the site will be minimized and that appropriate measures will be taken to restore disturbed areas to its former state.
- vi. Wildlife Impacts: Show that the WECS Project or the solar energy facility will not be a significantly negative impact on wildlife species in the area. For WECS Projects specifically, the applicant shall show that their project is consistent with the Wyoming Game and Fish Department's document entitled "Wildlife Protection Recommendations for Wind Energy Development in Wyoming" (November 17, 2010) and that it will follow recommendations made by the Wyoming Game and Fish Department. Solar energy facilities will follow recommendations of the Wyoming Game and Fish Department. Any reports prepared for the Wyoming Industrial Siting Council to address wildlife impacts shall be provided.
- vii. Cultural Resource Impacts. Show that appropriate measures will be taken to mitigate disturbance of any cultural resources on the site. Any reports prepared for the Wyoming Industrial Siting Council to address cultural resource impacts shall be provided.
- viii. If this project requires review by Industrial Siting Council, the applicant shall not be required to address vi) Wildlife Impacts or vii) Cultural Resource Impacts of this subsection.

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5. The Applicant shall notify the County Planning Office of any changes to the

application information that occur while the WECS project or the solar energy facility application is pending fourteen days (14) in advance of any hearings.

6. The WECS Project Permit or the Solar Energy Facility Permit expires within five (5) years of its date of approval by the Board of County Commissioners unless:
  - a. The Applicant has substantially commenced WECS Project or solar energy facility construction under an approved Albany County permit; or
  - b. The Applicant has submitted evidence acceptable to the Board of County Commissioners that the WECS Project or the solar energy facility is still viable and the delay in construction is caused by project management or coordination issues that are pending resolution in the near future.
7. The Board of County Commissioners may renew the permit for an additional five (5) year term. If the WECS Project or the solar energy facility is not completed once the additional term ends, the applicant must apply for a new WECS Project Permit or Solar Energy Facility Permit to proceed with the project.

#### **G. Design and Installation:**

1. Design Safety Certification for WECS Projects. Following the granting of WECS Project under these Regulations, a Professional Engineer shall certify, as part of the Zoning Certificate application, prior to construction that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
2. Color for WECS Projects. Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color as agreed to by the County Planner and the Applicant that will help the project blend with the natural visual character of the area.
3. Noise for WECS Projects. Noise associated with WECS operation shall not exceed fifty-five (55) dBA as measured at any point along the common property lines between a non-participating property and a participating property.
  - a. This level may be exceeded during short-term events such as utility outages, severe weather events, and construction or maintenance operations.
  - b. This standard shall not apply along any portion of the common property line where the participating property abuts state or federal property.
  - c. Noise levels may exceed the fifty-five (55) dBA limit along common property lines if written permission, as recorded with the Albany County Clerk, is granted by the affected adjacent non-participating property

owners. This permission is assumed in any sale of the property that may occur.

d. A noise study shall be provided that documents noise levels at the property lines will meet the standards above. The study must be completed by a professional engineer licensed in the State of Wyoming.

4. Signage for WECS Projects. There shall be no signage, logo, advertising or promotional lettering of any type allowed on the WECS Towers, Nacelles, or blades with the exception of reasonable manufacturer safety warning and emergency contact signs. Any other signage shall only be allowed as approved by the County.

5. Warnings. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

6. Climb Prevention for WECS Projects. All WECS Towers must be unclimbable by design or protected by anti-climbing devices.

7. Setbacks for WECS Projects.

a. All WECS Towers shall be set back at least one-half (.5) mile or five and one half (5.5) times the tower height, whichever is greater, from a residential dwelling or occupied structure. The distance for the above setback shall be measured from the point of the Primary Structure

foundation closest to the WECS Tower to the center of the WECS Tower foundation. The owner of the Primary Structure may waive this setback requirement. However, a WECS Tower shall not be located closer to a Primary Structure than one and one-tenth (1.10) times the WECS Tower Height.

b. All WECS Towers shall be set back a distance of at least one and one tenth (1.10) times the WECS Tower Height from third party transmission lines and communication towers.

c. All WECS Towers shall be set back a distance of at least one and one tenth (1.10) times the WECS Tower Height from adjacent property lines. This does not apply to property lines within WECS Projects.

d. All WECS Towers shall be set back a distance of one-half (.5) mile or five and one-half (5.5) times the tower height, whichever is greater, from any platted subdivision unless this restriction is waived in writing by the owners of all lands included within the distance specified in this paragraph; however, all WECS Project structures shall be set back a distance of at least one and one-tenth (1.10) times the WECS Tower Height from the adjacent property line.

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e. All WECS Towers shall be set back a distance of one-half mile (.5) mile from any incorporated municipality.

f. All WECS Towers shall be set back a minimum of one-quarter (.25) mile from

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the right-of-way of Interstate 80, Highway 34, 130 and 230, and U.S. Highway 287/30.

- g. All WECS Towers shall be set back a distance of at least one and one tenth (1.10) times the WECS Tower Height from public roads and railroads. Setback shall be measured from the edge of the road or rail right-of-way.
- h. All WECS Towers shall be set back from State Parks and wildlife refuges a minimum of one-quarter (.25) mile.
- i. The applicant does not need to obtain a variance from the county upon waiver by either a municipality or property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property. Copies of the signed waivers shall be furnished to the County Planning Office for inclusion in the application file.
- j. Setback distances may be modified at the discretion of the Board of County Commissioners to minimize degradation, if any, of the visual, environmental, or acoustic character of the area, additional performance standards may be adopted by the Board of County Commissioners upon formal consideration, review, and public hearings.

8. Setbacks for Solar Energy Facilities.

- a. Solar energy facilities shall be setback three hundred (300) feet of an occupied structure or residence unless waived in writing by the owner of the structure or residence;
- b. Solar energy facilities shall be setback one hundred (100) feet of any outer boundary of the facility; and
- c. Solar energy facilities shall be setback two hundred (200) feet of any public road right-of-way.
- d. The Board of County Commissioners may increase setbacks required from public road right-of-way beyond those required in this section to accommodate known big game animal migrations and frequent local wildlife movements and to reduce the risk of motor vehicle and big game collisions. The following may be consulted:

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- 1) Wyoming Game and Fish Department for setbacks from public roads;
- 2) Wyoming Department of Transportation for setbacks from state highways;

3) Albany County Road and Bridge Department for setbacks from county roads.

9. Use of Roads.

- a. Applicants, Owners, or Operators proposing to use any county, improvement district, municipal, or state roads, for the purpose of transporting any solar energy facility equipment or materials, WECSs or Substation parts and/or equipment for construction, operation, or maintenance of the solar energy facility, WECSs, or Substations shall:
- 1) Identify all such public roads. Detailed mapping of haul routes shall be submitted after the specific haul routes have been identified. No public roads shall be used for construction activities related to a WECS Project or solar energy facility until specific haul routes have been identified and maps have been submitted to the County Planning Office and appropriate approvals obtained.
  - 2) Obtain access permits and utility crossing permits from the county.
  - 3) The Applicants shall include a traffic study of any public roads leading to and away from the proposed WECS Project or solar energy facility, and at the discretion of the Board of County Commissioners, may be requested to provide additional studies and reports prepared by qualified professionals to determine if impacts to public roads will occur.  
  
If impacts are determined, a mitigation plan and/or long-term road maintenance agreement between the Applicant and Albany County will be required at the discretion of the Board of County Commissioners. Wyoming Department of Transportation may also require a road maintenance agreement with the Applicant for use and maintenance of state highways. If required, the long-term road maintenance agreement shall be fully executed prior to any development within the project boundaries.
  - 4) If potential road impacts are determined to extend beyond County boundaries the Applicants will be responsible to contact all potentially impacted jurisdictions (other states or counties) and to provide written documentation of the contacts as well as written

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statements from the jurisdictions that they are aware of the potential impact before submission of the proposal. If approval is not given by impacted jurisdictions, the applicant must designate new routes and receive approval before submission.

- b. The County Planning Office may require the Applicants, Owners, or

Operators to do the following:

- 1) Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
  - 2) Secure Financial Assurance in a reasonable amount at the discretion of the Board of County Commissioners for the purpose of repairing any damage to public roads caused by constructing, operating, or maintaining the WECS Project.
  - 3) The use of public roads and other infrastructure shall be in compliance of federal, state, and county regulations governing such activities. If degradation to or damage of public roads or other infrastructure by parties affiliated with the installation, operation, or maintenance of a WECS Project or a solar energy facility, these parties will bear all costs required to return the public roads or other infrastructure to their original or better condition prior to their use for the project. If Albany County has entered into any Memorandum of Understanding with any other counties in the proposed WECS Project, including counties in other states as applicable, the Owner shall furnish proof of compliance with the requirements of any such county.
- c. Private Roads: The applicant shall describe how private roads within the WECS Project or the solar energy facility will be designated as private roads and acknowledge that the County is not required to accept the dedication for public use, repair, or maintain any private road.
- d. Access: The applicant must provide documentation that adequate legal access is available to the WECS Project or solar energy facility.
10. Sediment Control. Owners or Operators shall do the following to minimize soil erosion and damage to existing vegetation during construction and maintenance of a WECS Project or solar energy facility:
- a. Minimize disturbance and construction on erodible slopes.
  - b. Minimize the number of new roads and construction staging areas.
  - c. Minimize the grading width of roads. One-lane roadways with turn-outs are recommended.

- d. Owners or Operators shall reclaim areas disturbed by construction activities with native vegetation as areas of the WECS Project or solar energy facility complete construction.

11. Oversight of Project Construction. All phases of construction shall be routinely inspected by a professional licensed in the State of Wyoming. The inspector shall be contracted by the owner or operator of the project. The inspector shall inspect construction of the project and all standards required in the adopted WECS Permit. Monthly written reports shall be provided to the Albany County Planning Office. Laramie Rivers Conservation District must be consulted to ensure potential erosion impacts are mitigated and disturbed areas are revegetated with native grasses.

## H. Operation.

### 1. Maintenance.

- a. The owner of the WECS or solar energy facility must maintain and operate the WECS or solar energy facility in compliance with all state and federal occupational and environmental health and safety regulations. All WECS that remain inoperative for ninety (90) days or longer must be removed unless the owner provides a written plan and schedule acceptable to the County Planning Office for refurbishing and reactivating inoperative WECS. The owner of the WECS shall submit to the County Planning Office a quarterly statement on that lists all WECS currently inoperative for longer than ninety (90) days.
- b. The Owners or Operators of the WECS or solar energy facility shall control and eradicate noxious and invasive weed species as designated by County Weed and Pest within the disturbed areas of the project, during and for a minimum of five (5) years after the life of the operation. This shall be maintained to the satisfaction of County Weed and Pest. The Owners or Operators may choose to contract with the County or outside services to control weeds. Disturbed areas shall be preliminarily delineated at the time of application by the applicant and shall include, as a minimum, the proposed future easements for new roads, transmission lines, WECS, buildings, and any other property that may be disturbed or accessed by the Owner. If the delineated disturbed areas change, the Owner shall notify the County Weed and Pest District.
- c. Periodic maintenance will include upkeep to all structures and grounds for aesthetics. Routine scheduled maintenance shall include the repainting of equipment and structures and ground work or landscaping as appropriate to the location.

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### 2. Interference for WECS Projects.

- a. The Applicants shall provide the applicable microwave transmission providers and local emergency service providers (911 operators) copies of the project summary and site plan. To the extent that the above providers

demonstrate a likelihood of interference with its communications resulting from the WECS, the Applicants shall take reasonable measures to mitigate such anticipated interference. If these entities make subsequent changes to their equipment and systems such that an existing WECS Project interferes with their re-designed communications systems, the Board of County Commissioners shall not require the existing WECS Project to be moved or disassembled to remedy such interference.

- b. If, after construction of the WECS the Owners or Operators receive a written complaint related to interference with emergency services communications, local broadcast of residential television, or other communications venues, the Owners or Operators shall take steps to respond to the complaint as reasonably feasible. The Owners or Operators of the WECS will bear any costs incurred to mitigate interference.
- c. The Owners or Operators shall mitigate light impact on existing residences as reasonably feasible and still meet Federal Aviation Administration (FAA) requirements. The Board of County Commissioners shall require installation and maintenance of an aircraft detection lighting systems (ADLS) in order to mitigate light impacts to nearby residential areas, if approved by the FAA. Such FAA approved systems shall require the turbine tower warning lights to be off except when necessary to alert aircraft in the area. Lights shall remain off at night unless aircraft are detected within FAA proximity minimums in the area by the ADLS or if FAA requirements dictate otherwise. (Amended January 5, 2016)

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### 3. Coordination with Local Emergency Response Agencies.

- a. The Applicants, Owners, or Operators shall submit to the local fire department and/or the Emergency Management Coordinator a copy of the site plan.
- b. The Applicant shall submit to the County Fire Warden, the Emergency Management Coordinator, and the County Sheriff an emergency management plan for review and comment prior to permit approval. If a WECS Project Permit or Solar Energy Facility Permit is granted, the plan shall be supplemental and revised following construction of the facility and prior to its operation if there are any variations in the facility's

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construction which would materially impact the original emergency management plan.

- 4. WECS Project Mapping. The Owners or Operators shall provide the County Planning Office with a detailed map of the site within ninety (90) days of when operation begins. This map will include the geographic coordinates of each WECS structure, all roads within the WECS Project area, and public roads and



turnouts connecting to roads of the WECS Project. This Map shall be updated every five (5) years or after the completion of any significant additional construction, whichever occurs first.

- I. Socio-Economic Impacts:** Any reports prepared for the Wyoming Industrial Siting Council that address economic and social impacts shall be provided for review and used to determine proper mitigations of these impacts is proposed in the application.
- J. Wyoming Game and Fish Department (WGF):** The Applicants are advised to request, during initial site selection, information from WGF on critical habitat of protected species that may be present. The Applicant should obtain a letter from WGF verifying that the Applicant has coordinated with WGF about the project site selection and describing any annual monitoring of wildlife impacts and mortalities, as recommended by the WGF. The Applicant will need to ensure access to the wind development area for the purposes of annual wildlife monitoring activities, if required. The Applicant need not complete duplicative studies, but shall provide the County Planning Office with wildlife studies contained in existing environmental assessments and/or formal NEPA studies such as the Environmental Impact Statements that cover the project area. The County Planning Office will also route the application to WGF for comment and review of pertinent reports. WGF will have thirty (30) days from the date it receives the application to provide the County Planning Office with its comments concerning the application. If no comments are received within thirty (30) days, the County Planning Office will assume the application is in order with the WGF and proceed with the permitting process.
- K. Archeological and Historical Resources:** The Applicants are advised to seek comments and approval from appropriate agencies for matters concerning archaeology studies, historical importance, and any other relevant Federal, State and Local issues and to include relevant reports in the application process. The Applicant need not complete duplicative studies, but shall provide the County Planning Office with relevant historical or archeological studies contained in reports required by other jurisdictions. The County Planning Office will also route the application to the Wyoming State Historical Preservation Office (SHPO) and any other relevant agencies for comment and review. These agencies shall have thirty (30) days from the date they receive the application to provide the County Planning Office with its comments concerning the application. If no comments are received within thirty (30) days, the County Planning Office will assume the application is in order and will proceed with the permitting process.

- L. Liability Insurance:** The Owners or Operators of the WECS Project or solar energy facility shall maintain a current commercial general liability policy covering bodily injury and property damage with limits of at least one (1) million dollars per occurrence and five (5) million dollars in the aggregate. The Applicants shall provide a certificate of insurance to the Board of County Commissioners prior to the Board's approval of the submitted application, which certificate shall give no less than thirty (3) days' notice if the policy is cancelled or coverage is materially changed. If the application is approved, the Owners or Operators of the WECS or the solar energy facility shall provide a

certificate of insurance to the Board of County Commissioners annually throughout the life of the WECS Project. Notice of cancellation or material change, if not remedied prior to loss of such insurance, shall constitute prima facie evidence requiring revocation of the WECS Permit.

**M. Waste Management Plan:** A waste management plan that includes an inventory of estimated solid wastes and proposed disposal program for the construction, operation, and eventual decommissioning of the proposed WECS Project or solar energy facility. On-site disposal of construction waste shall not be permitted.

**N. Decommissioning and Reclamation:**

1. Provide a site and facility reclamation and decommissioning plan which indicates the planned life of the wind energy facility or the solar energy facility and the means by which the facility and its site will be decommissioned and reclaimed at the end of the facility's life and which certifies that any property owner within the wind energy facility and its site who is not the applicant has been consulted in development of the reclamation and decommissioning plan. Such plan shall comply with all requirements adopted by the industrial siting council under §§35-12-105 (d). If the permit is granted, the plan shall be updated every five (5) years until site reclamation and decommissioning is complete.
2. All applications for a WECS Permit or a Solar Energy Facility Permit shall meet the requirements adopted pursuant to §§35-12-105 (d) and (e) regardless of whether the facility is referred to the industrial siting council pursuant to §§18-5-509 or is otherwise subject to the industrial siting act.
3. Albany County will request that the Wyoming Industrial Siting Council include Albany County as an entity that can access the financial assurance provided for decommissioning and reclamation of the project to ensure proper decommissioning and reclamation occurs at the end of the project's

life. **O. Remedies:**

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1. Any party aggrieved by the final decision of the Board of County Commissioners may have the decision reviewed by the district court pursuant to Rule 12 of the Wyoming Rules of Appellate Procedure.
2. When a decision is issued after a hearing on an application for a WECS Permit or a Solar Energy Facility Permit under these regulations, the decision is final for purposes of judicial review.

**P. Revocation or Suspension of a WECS Permit or Solar Energy Facility Permit:**

1. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall cause a WECS Permit or Solar Energy Facility Permit to be revoked or suspended under these Regulations.
2. Any material false statement in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted the refusal to grant a permit shall justify the revocation or suspension of a WECS Permit or Solar Energy Facility Permit.
3. Failure of a permitted WECS Project or solar energy facility to transmit electricity created by wind energy or solar energy for a period of at least two (2) consecutive years or the failure to maintain land rights necessary to operate the WECS Project or solar energy facility shall justify the revocation or suspension of a WECS Permit or Solar Energy Facility Permit.
4. Prior to implementation of the existing County procedures for the revocation or suspension of a WECS Project Permit or Solar Energy Facility Permit, the appropriate County body shall first provide written notice to the Owners and Operators, setting forth the alleged reasoning for the revocation or suspension of the WECS Project Permit or Solar Energy Facility Permit. Such written notice shall provide the Owners and Operators a reasonable time period, not to exceed sixty (60) days, for good faith negotiations to resolve the issues that have led to the possible suspension or revocation of the WECS Project Permit or Solar Energy Facility Permit.
5. If the Board of County Commissioners determines in its discretion, that the parties cannot resolve the issues leading to the possible suspension or revocation of the WECS Project Permit or Solar Energy Facility Permit within the good faith negotiation period, the existing County regulation provisions addressing the resolution of such default shall govern.
6. Enforcement. The provisions of these Regulations are enforceable by all appropriate legal remedies including but not limited to injunctive relief or a writ of mandamus.

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**Q. Referrals:** The Board of County Commissioners may refer a WECS Project or solar energy facility to the industrial siting council, if not already required to be permitted by the council, for additional permitting in accordance with §§18-5-509 and §§15-5-510. A referral shall be made only when the Board of County Commissioners finds there are potentially significant adverse environmental, social, or economic issues. A referral shall be made no longer than thirty (30) days after the application is deemed complete.

**Section 13. Home Business Permit.** Home business shall meet the following standards:

**A. Agricultural Zone and Land Use Classification:**

1. The use shall be conducted by the inhabitants of a dwelling unit on the property.
2. There shall be no offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.
3. Generation or use of hazardous materials/wastes regulated by the Wyoming Department of Environmental Quality is prohibited.

**B. Residential Zones and Land Use Classification:**

1. The use shall be conducted by the inhabitants of a dwelling unit on the property.
2. The architecture of the accessory structure constructed or used in the home business shall be consistent with that normally found in the zone and be visually harmonious with surrounding structures, and such accessory structures shall not number more than one (1) or contain more than fifty percent (50%) of the square footage of the primary residence.
3. Home business activities conducted outside of structures shall take place only during normal daylight business hours.
4. Traffic and parking associated with the home business shall be minimal and restricted to normal daylight business hours.
5. There shall be no offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.
6. Generation or use of hazardous materials/wastes regulated by the Wyoming Department of Environmental Quality is prohibited.

**Section 14. Variances.**

**A. General Provisions:** A variance is an authorization for the construction or maintenance of a building or structure or for the establishment or maintenance of a use of land, which is prohibited by a zoning resolution. A variance is a determination that the use allowed is not offensive to the zoning resolution with regard to the particular circumstances. The language of a variance will be construed against the party seeking it, except in matters of triviality, such as a matter of inches constituting noncompliance.

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Suggestions to Look for from public

- Setbacks
- Reclamation
  - Insurance

- Digital notification (planning wide)
- Length of time for unused turbine
  - Fine per day past certain date without plan
  - Quarterly?
- Comment for problems ideas
  - Who do they want to contact? County? Company?
- Insurance beyond bodily injury
- Job creation
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