

Chapter 13.20 - WIND ENERGY SITING AND FACILITIES

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Section 13.20.010 - Purpose.

The purpose of this Chapter is to establish minimum requirements and regulations for the placement, construction, and modification of wind energy siting and facilities, as defined herein, while promoting the safe, effective, and efficient use of such energy systems. In addition, the purpose of this Chapter is to oversee the permitting of wind energy siting and facilities for the purpose of preserving and protecting public health and safety, to reasonably preserve and protect natural, cultural, and wildlife resources, to protect the quality of life for nearby property owners, to facilitate economic opportunities for both County and residents, and to allow for the orderly development of land. 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. And to promote the supply of alternative energy sources in support of Wyoming's goal of increasing energy productions from renewable energy sources.

Section 13.20.020 – Applicability, Authority, and Severability.

Applicability. This Chapter governs Wind Energy Siting and Facilities, the siting of WECS, WECS Projects and Substations that provide electricity to be sold to wholesale or retail markets, and all associated projects throughout the unincorporated areas of Platte County. Non-commercial WECS's shall be considered an accessory use to a principal permitted use in any zoning district and are covered in Section 13.20.120 of this Chapter. Approval of any Wind Energy Siting and Facilities Permit does not preclude the need to obtain a Project Building Certificate for the project, additions, and/or updates or changes to the project.

- A. It is unlawful for any person to construct, install maintain, modify, operate, or abandon a wind energy facility that is not in compliance with this chapter or with any condition contained in a wind energy siting and facility permit or other land use permit issued pursuant to this chapter or any other applicable law or regulation.

Authority. Authority granted by the following Wyoming Statutes:

- A. Title 18 Counties. Chapter 5 Planning and Zoning, Article 1. County Planning Commission, W.S. §§ 18-5-101 to 18-5-107, Article 2. Planning and Zoning Commission. W.S. §§ 18-5-201 to 18-5-207 and Article 5. Wind and Solar energy siting and Facilities W.S. §§ 18-5-501 to 18-5-513.
- B. Title 9 Administration of the Government. Chapter 8 Land Use Planning, Article 1. General Provisions, W.S. §§9-8-101 to 9-8-302.

Severability. If any section or provision of this Chapter or the application of that section or provision to any person, situation, or circumstance is adjudged invalid for any reason, the adjudication does not affect any other section or provision of these Regulations or the application of the adjudicated section or provision to any other person, situation, or circumstance. The Board of Platte County Commissioners declares that it would have adopted the valid portions and application of these Regulations without the invalid part(s), and to therefore, the provisions of these Regulations are declared to be severable.

Section 13.20.030 - Definitions.

- A. "Applicant(s)." The entity or person who submits to the County, pursuant to Sections 13.20.020 and 13.20.040 of these Regulations, an application for a preliminary plan review or the siting of any WECS, WECS Project or Substation.
- B. "Financial Assurance." Reasonable assurance, at the discretion of the County Commissioners, from a credit worthy party that the costs associated with but not limited to, construction; maintenance; consequences from an abandonment; or a failure to properly execute closure, post-closure care is recoverable from applicant(s) under these Regulations.
- C. "Operator." The entity responsible for the day-to-day operation and maintenance of any WECS, WECS Project or Substation, including any third-party subcontractors.
- D. "Owner." The entity or entities with an equity interest in the WECS(s), including their respective, successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS(s) (unless the property owner has an equity interest in the WECS(s)); or (ii) any person holding a security interest in the WECS(s) 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(s) at the earliest practicable date.

- E. "Preliminary Plan Review," An initial review for the purpose of providing an Applicant formal feedback about potential issues that the proposal may face. The Preliminary Plan Review expressly does not grant approval and does not negate or minimize requirements that may arise during later reviews of final proposals.
- F. "Residential Dwelling and Occupied Structure(s)," Structures such as residences, quonset huts, barns, commercial buildings, hospitals, and day care facilities. Primary Structure(s) excludes structures such as storage sheds and loafing sheds.
- G. "Professional Engineer," A qualified individual who is licensed as a professional engineer in the State of Wyoming.
- H. "Substation," The apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
- I. "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(s) and their support facilities, including transmission lines.
- J. "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 pursuant to Section 13.20.020 of these Regulations and including the project area as defined by the owner.
- K. "WECS Tower" The support structure to which the nacelle and rotor are attached. "WECS Tower Height" means the distance from the highest point of a vertical rotor blade to the top surface of the WECS foundation.

Section 13-20-040 – Prohibition and Penalties.

- A. Prohibition. It is unlawful to locate, erect, construct, install or enlarge a wind energy siting and facility without first obtaining a Wind Energy Siting and Facility Permit from the Board of County Commissioners; W.S. §§18-5-502(a)., unless prior siting approval has been obtained for each individual WECS and Substation pursuant to these Regulations.
- B. Penalties.
 - a. Any person found to be in violation of subsection Prohibition above, is liable for civil penalty of not more than ten thousand dollars (\$10,000) for each violation. Each day of a continuing violation constitutes a separate offense.
 - b. Any wind turbine tower, wind generator or portion thereof or facility or portion thereof erected in violation of this article shall subject the owner of the tower, generator or solar energy panel or facility to a penalty of seven hundred fifty dollars (\$750.00) per day for every tower, generator or solar energy panel or facility so erected.

Section 13-20-050 - Regulations and design standards - Commercial.

All wind energy siting and facilities shall be constructed to meet, and be maintained in compliance with all Federal, State and Local requirements. Written statements providing proof that the WECS Project is in full compliance with these relevant requirements shall be provided to the Platte County Planning Office.

If credible issues arise at any time during the review, and/or the approval development proposal process, related to compliance of Federal, State and/or Local requirements, the applicant(s) at the discretion of the County Commissioners may be requested to provide additional studies, reports, maps and/or graphic depictions prepared by a professional qualified in the relevant discipline detailing the issues, characteristics, special features, potential impact, and mitigation measures that may be needed to minimize the issues.

Nothing in these Regulations is intended to preempt other applicable Federal, State and/or Local laws and regulations.

- A. Permitted Locations. A wind energy siting and facility that complies with the provisions of this section may be permitted in Commercial, Industrial, and Agricultural Classification districts with an approved Wind Energy Siting and Facility Permit.
- B. Design Standards.
 - a. Minimum Lot Size. No WECS Tower shall be erected on any lot less than five acres in size.
 - b. Minimum Blade Height. The minimum height of the lowest extent of a turbine blade shall be thirty feet above the ground and fifteen feet above any structure or obstacle within the fall zone of the tower.
 - c. Maximum Height. The maximum height for all structures shall be established through the Wind Energy Siting and Facility Permit process, provided a structure height of thirty feet, or less shall always be permitted.
 - d. Color. Towers and blades shall be green or tan FAA approved, non-reflective, unobtrusive color that will help the project blend with the natural visual character of the area.
 - e. Potable Water and Sanitary Sewer. All permanent occupied operation and maintenance buildings must have approved potable water and sanitary sewer systems. Approval shall be obtained from the State of Wyoming Engineer's Office for water and State of Wyoming Department of Environmental Quality for sewer/septic.
 - f. National Electric Code. All Wind energy siting and Facility projects shall comply with the National Electric Code, current edition, applicable ICC Codes, and shall comply

with the standards of the Wyoming Department of Fire Prevention and Environmental Safety.

- g. Signage. There shall be no signage or logo of any type allowed on the WECS tower(s) except for safety signs, warning signs and emergency contact signs. Any other signage shall only be allowed as approved by the County.

C. Safety Certification.

- a. WECSs shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI") and National Electrical Commission ("NEC"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL "), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energie ("GL "), or an equivalent third party.
- b. Following the granting of a Wind Energy Siting and Facility Permit under these Regulations, an independent third-party Professional Engineer licensed in the State of Wyoming shall certify, as part of the Building 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.

D. Setbacks. In determining the required separation of a commercial WECS Project from the uses listed, all applicable setbacks are to be followed. Where multiple setbacks are applicable, the most restrictive applies.

- a. All WECS Project structures shall be set back at least one-quarter ($\frac{1}{4}$) mile from any residential dwelling or occupied structure. The distance for the above setback shall be measured from the point of the residential dwelling or occupied structure foundation closest to the WECS Tower to the center of the WECS Tower foundation. The landowner of the residential dwelling or occupied structure may waive this setback requirement; but in no case shall a WECS Tower be located closer to a residential dwelling or occupied structure less than 5.5 times the WECS Tower Height.
- b. All WECS Project structures shall be set back at least 5.5 times the WECS Tower Height from third party transmission lines, and communication towers.
- c. All WECS Project structures shall be set back at least 1.10 times the maximum WECS Tower Height from any property line contiguous or adjacent to the facility, unless waived in writing by the landowner of every property which would be located closer than the minimum distance.
- d. All WECS Project property line structures shall be set back a distance of at least 5.5 times the maximum WECS Tower Height and no less than one-quarter ($\frac{1}{4}$) mile from any platted subdivision or Residential District.

- e. All WECS Project structures shall be set back one mile from any incorporated municipality, unless waived by the municipality.
- f. All WECS Project structures, except transmission lines, shall be set back a minimum of one-quarter (¼) mile from any public road right-of-way.
- g. All WECS Project structures shall be set back from State Parks a minimum of one-quarter (¼) mile.
- h. The applicant does not need to obtain a variance from the County upon waiver by either the County 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.
- i. Setback distances may be modified at the discretion of the County Commissioners if:
 - i. Affected adjacent property owner(s) have provided a waiver to the setback requirement, including such recordation at the Office of the County Clerk.
 - ii. To minimize the degradation of the visual character of the area additional performance standards may be adopted by the County upon formal consideration, review, and public hearing(s).
 - iii. Required from public road rights-of-way beyond those required in this section to accommodate known animal migrations and frequent local wildlife movements and to reduce the risk of motor vehicle and big game animal collisions.
- E. Military Facility. No vertical construction of a WECS Tower within two (2) nautical miles of any active federal military missile launch or control facility.
- F. Drainage, Erosion, Dust Control, Grading and Vegetation. Drainage, Erosion, Dust Control, Grading and Vegetation Removal Plan prepared by a Wyoming Licensed Engineer based on a 25-year storm event unless the location, terrain and topography dictate a high amount.
- G. Safety/Access.
 - a. A minimum eight-foot fence shall be placed around the perimeter of the wind energy siting and/or facility.
 - b. All WECS Towers must be un-climbable by design or protected by anti-climbing devices.
 - i. Site appropriate security enclosures with locking portals at least six feet high.
 - ii. Anti-climbing devices 12 feet vertically from the base of the WECS Tower.
 - c. Appropriate warning signage shall be placed at the entrance, base of all pad-mounted transformers, substations, and perimeter of the wind energy siting and facility project.

- d. Permanent visible, reflective, colored objects shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.
 - e. Shall provide the following at all locked entrances:
 - i. A visible "High Voltage" warning sign.
 - ii. Name(s) and contact number(s) for the electric utility provider.
 - iii. Name(s) and contact number(s) for the site operator.
 - iv. The facility's 911 address and GPS coordinates.
 - v. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.
- H. Noise. No operating wind energy siting and facility shall produce noise that exceeds any of the following limitations. Adequate setbacks shall be provided to comply with these limitations.
- a. Fifty (50) dBA, as measured at the property line of any neighboring residentially zoned lot.
 - b. Forty-five (45) dBA, as measured at any existing neighboring residence between the hours of nine p.m. and seven a.m.
 - c. Sixty (60) dBA, as measured at the property lines of the project boundary, unless the owner of the affected property and the planning commission agree to a higher noise level, as follows:
 - i. The owner of a neighboring property that would otherwise be protected by the sixty (60) dBA noise limitation may voluntarily agree, in writing, to a higher noise level. Any such agreement must specifically state the noise standard being modified, the extent of the modification, and be in the form of a legally binding contract or easement between the landowner (including assignees in interest) and the wind power facility developer, effective for the life of the project. Notwithstanding any such voluntary noise agreement between the affected landowner and the wind power facility developer, the agreement shall only be effective and reflected in the County's authorization of the project when it has been reviewed and determined acceptable to the County. The County shall consider the likely impacts and consequences of the modified noise limit requested, based on the specific circumstances of the situation, in determining whether to grant the request. Any such noise agreement must be submitted with the Wind energy siting and Facility Permit application and if authorized by the County, must be filed with the County Recorder upon issuance of the Wind Energy Siting and Facility Permit.
- I. Visual Appearance.

- a. WECS Project buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment.
 - b. Appropriate landscaping and/or screening materials may be required to help screen the wind energy siting and facility and accessory structures from major roads and neighboring residences.
 - c. No WECS tower or other tall structure associated with a WECS Project shall be lighted unless required by the Federal Aviation Administration (FAA). When lighting is required by FAA, it shall be the red, intermittent, glowing-style, rather than the white, strobe-style, unless disclosed and justified through the application review process. Aircraft sensor systems to turn the lights on only when low-flying aircraft are in the area may be required.
 - d. Lighting of the WECS facility and accessory structures shall be limited to the minimum necessary and full cut-off lighting (e.g., dark sky compliant) may be required when determined necessary to mitigate visual impacts.
 - e. No advertising or promotional lettering shall be displayed on any wind energy siting and facility beyond the non-illuminated manufacturers or applicant's logo.
 - f. All electrical interconnection and distribution lines within the project boundary shall be underground, unless determined otherwise by the County because of severe environmental constraints (e.g., wetlands, cliffs, hard bedrock), and except for power lines that leave the project or are within the substation. All electrical interconnections and distribution components must comply with all applicable codes and public utility requirements.
- J. Fire Protection. All WECS Project shall have a defensible space for fire protection.
- K. Local, State and Federal Permits. A WECS Project shall be required to obtain all necessary permits from the Wyoming Department of Environmental Quality, including the Wyoming Division of Air Quality and the Wyoming Division of Water Quality, applicable permits required by Platte County, and applicable Federal permits.
- L. Agreements/Easements. If the land on which the project is proposed is to be leased, rather than owned, by the WECS Project development company, all property within the project boundary must be included in a recorded easement(s), lease(s), or consent agreement(s) specifying the applicable uses for the duration of the project. All necessary leases, easements, or other agreements between the WECS Project development company and the affected parties must be in place prior to commencing construction, unless specified otherwise by the Wind Energy Siting and Facility Permit.
- M. Use of Public Roads. Any applicant(s), owner(s), or operator(s) proposing to use any county, municipality, township, village or State Road(s), for the purpose of transporting WECS(s),

substation parts, and/or equipment for construction, operation, or maintenance of the WECS(s) or substation(s), shall:

- a. Identify all such public roads, by submitting a detail mapping of haul routes shall be submitted with the Wind Siting and Facility Permit application.
- b. Obtain applicable weight and size permits from relevant government agencies prior to construction.
- c. Obtain new access, access modification, or change of use of access permit; utility crossing permits from WYDOT for impacts to any State Highway facilities.
- d. The applicant(s), at the discretion of the County Commissioners, may be requested to provide additional studies and reports prepared by a 3rd party Wyoming licensed civil engineer to determine if impacts to public roads will occur. If impacts are determined, a mitigation plan and/or long-term road maintenance agreement will be required.
- e. If potential road impacts are determined to extend beyond County boundaries the applicant(s) will be responsible to contact all potentially impacted jurisdiction(s), and to provide written documentation of the contacts as well as written statements from the jurisdiction(s) that they are aware of the potential impact. All required written statements shall be provided to the Platte County Planning Department prior to the scheduling of the hearing for the Wind Energy Siting and Facility Permit.
- f. To the extent an applicant(s), owner(s), or operator(s) must obtain a weight or size permit from the County, the applicant(s), owner(s), or operator(s) shall:
 - i. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
 - ii. Secure Financial Assurance in a reasonable amount at the discretion of the County Commissioners for the purpose of maintaining and repairing any damage to public roads caused by constructing, operating, or maintaining for the life of the WECS Project including decommissioning.
 - iii. The use of public roads and other infrastructure shall be in accordance with and compliance of Federal, State and County regulations governing such activities. Any degradation to or damage of public roads or other infrastructure by parties affiliated with the installation, operation, or maintenance of WECS Project will bear all costs required to return the public roads or other infrastructure to their original or better condition prior to their use of same. If Platte County has entered into any Memorandum of Understanding with any other counties in the proposed WECS Project(s), including counties in other states as applicable, the owner shall furnish proof of compliance with the requirements of any such county.

N. Additional Permittable Uses. The County may allow the applicant(s) to include certain accessory type uses on a WECS Project facility property, such as a visitor center where the public may be permitted to view a facility and obtain information about the specific facility and wind energy facilities in general. Directional signage may be permitted by the County on individual bases. Information on local historical issues may be included, or required, with approval of such accessory uses.

O. Operation.

a. Maintenance.

- i. The owner(s) or operator(s) of the WECS must submit a yearly statement noting that all aspects of the WECS Project are being maintained per manufacturer's instructions and directions for relevant components of the facility as well as per all State and Federal requirements.
- ii. Designated and declared weeds shall be controlled on permitted sites during and after the life of the operation. This shall be maintained to the satisfaction of County Weed & Pest.
- iii. Periodic maintenance will include upkeep to all structures and grounds for material state and aesthetics. Routine scheduled maintenance shall include the repainting of equipment and structures and groundwork or landscaping as appropriate to the location and the installed or erected assets.

b. Interference.

- i. The applicant(s) shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary and site plan. To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s). The applicant(s) shall take reasonable measures to mitigate such anticipated interference.
- ii. If, after construction of the WECS(s), the owner(s) or operator(s) receive a written complaint related to interference with emergency services communications, local broadcast of residential television or other communications venues, the owner(s) or operator(s) shall take steps to respond to the complaint as reasonably feasible.
- iii. That the developer(s) mitigate(s) light impact on existing residences as reasonably feasible and still meet FAA requirements.

c. Materials Handling, Storage, and Disposal

- i. All solid wastes related to the construction, operation, and maintenance of a WECS Project shall be removed from the site promptly and disposed of in accordance with all Federal, State and Local laws.

- ii. All hazardous materials related to the construction, operation, and maintenance of the WECS Project shall be handled, stored, transported, and disposed of in accordance with all applicable Federal, State and Local laws.
- P. Coordination with Local Fire Department and Emergency Management Coordinator.
 - a. The applicant(s), owner(s) or operator(s) shall submit to the local fire department and/or the Emergency Management Coordinator a copy of the site plan.
 - b. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.
- Q. Federal, State and Local Requirements.
 - a. Federal Aviation Administration (FAA) The applicant(s) for the WECS shall comply with all applicable FAA requirements.
 - b. Local Aviation Facilities The applicant(s) will minimize all applicable concerns and/or potential impacts with existing local public or private aviation facilities.
 - c. Military The applicant(s) for the WECS shall comply with all military requirements whenever applicable.
 - d. Federal Communication Commission (FCC) The applicant(s) for the WECS shall comply with all FCC requirements.
 - e. Wyoming Industrial Siting Council The applicant(s) for the WECS shall comply with all Wyoming Industrial Siting Council requirements.
 - f. United States Fish and Wildlife Service (USFWS) The applicant(s) for the WECS Project shall comply with all applicable USFWS requirements including federal endangered species regulations as established in the Federal Endangered Species Act.
 - g. United States Army Corp of Engineers (COE) The applicant(s) for the WECS Project shall comply with all applicable COE requirements including the Federal Wetlands regulations as established in the Federal Clean Water Act.
 - h. Wyoming Department of Environmental Quality (DEQ) The applicant(s) for the WECS Project shall comply with all applicable DEQ requirements.
 - i. Noise Levels The applicant(s) for the WECS Project shall comply with all Federal, State and Local requirements.
 - j. Public Highway, Streets, Bridges or Navigable Streams The applicant(s) should be aware that the County will strictly enforce Wyoming Statue 35-10-401 if obstruction, injury and/or pollution occurs related to the WECS Project.
 - k. Any and all other Federal, State and Local Requirements The applicant(s) f or the WECS Project shall comply with all applicable governmental requirements.
- R. Compliance with Additional Regulations. Nothing in these regulations is intended to preempt other applicable State and Federal laws and regulations.

Section 13.20.060 - Preliminary Plan Review Application.

Approval of a Wind Energy Siting and Facility Permit is expressly not granted by approval of a preliminary plan review and does not negate or minimize requirements of other agencies in any manner. Any preliminary plan review process is meant to consider the land use from a local zoning and land use perspective versus the required studies and formal details of the project. This puts Platte County, adjacent counties, neighboring property owners and the public on notice that a property is under consideration for a potential WECS Project, gives the applicant some awareness of potential issues associated with a particular property and minimizes costs to the applicant until such time that a Wind Energy Siting and Facility Permit application is submitted.

- A. A Preliminary Plan Review application shall be submitted to request approval of a preliminary plan for a site for a potential WECS Project as an approved land use whereby the concept of said use is approved without implying that a WECS Project is approved or that any structure will ultimately be approved. Preliminary plan applications shall not require that studies, detailed site plans, formal agreements and other information requested per these Regulations be submitted. A separate Wind Energy Siting and Facility Permit application will be required at a future date to proceed further with any WECS Project and that application will necessarily meet all applicable requirements of these Regulations. A Preliminary Plan application will contain financial assurance. (Cash, Corporate Bond, or Surety Bond) that the applicant can construct and operating the proposed WECS Project.
- B. The Alternative Energy Permit application process for anemometers/meteorological towers represents a type of preliminary plan as it allows the County, neighboring landowners, and the general public to be made aware that a property is being studied for a potential WECS Project with a Alternative Energy Permit request for any anemometer/meteorological towers. Again, a separate Wind Siting and Facility Permit application would be required at a future date to proceed further with any WECS Project and that application will necessarily meet all applicable requirements of these Regulations.
- C. Upon approval of a preliminary plan anemometers/meteorological towers and other non-invasive or temporary structures may be permitted by the Board of Commissioners.

Section 13.20.070 - Wind Siting and Facility Permit Applications.

An application for a Wind Energy Siting and Facility Permit to establish a WECS Project shall comply with all the requirements identified in W.S. §§18-503 and shall include:

- A. Verification that reasonable efforts have been undertaken to provide notice in writing to all landowners within one (1) mile of the proposed wind energy siting and facility, to the military installation commander of the commander's designee, to military installation commander of the commander's designees, federal, state, and local departments utilizing

airspace above, to the WYDOT District Engineer, and to all cities and towns located within twenty (20) miles of the proposed wind energy siting and facility.

- B. Notices shall include a general description of the WECS Project including its location, projected number and capacity, likely routes of ingress and egress, other related facility locations, and the likely location of electric transmission.
- C. Notice shall be provided to the record owners and claimants of mineral rights located on or under the lands where the proposed WECS Project will be constructed. Notice shall include the location of the proposed WECS Project and underground wiring. Notice may be made by publication. The certification of notice shall be submitted with the application and shall comply with all standards and requirements adopted by the Wyoming Industrial Siting Council.
- D. Notice shall include a summary of the proposed WECS Project, invite the public to submit comments and identify the time, date, and location of the hearing.
- E. Affidavit of Publication to certify that that notices of the proposed WECS Project have been published in a newspaper of general circulation at least twenty (20) days prior to the public hearing and included the applicant's name and contact information, a general summary/description of the project, place, date and time of the public hearings, and an invitation to attend public hearings and/or submit written comments to the Planning Office. Failure of the applicant to provide for the Affidavit of Publication for such notice(s) may, result in removal of the application from the Planning and Zoning Commission and Board of County Commissioners agenda and cancellation of public hearings.
- F. The name(s), address(es), and contact number(s) of the applicant(s), owner(s) and operator(s), and all property owner(s);.
- G. A site plan showing:
 - a. Boundaries of the site.
 - b. Property lines, including identification of adjoining properties.
 - c. Setback lines.
 - d. All proposed wind energy siting and facility structures.
 - i. Including guy lines and anchor bases (if any).
 - ii. Electric cabling from the WECS Tower to the substation(s).
 - iii. Ancillary equipment and transmission lines.
 - e. Location of all existing structures with their uses identified.
 - f. Easements, public access roads, turnout locations, points-of-delivery, staging areas, and rights-of-way.
 - g. Copy of the current FEMA FIRM map that shows the subject property.
- H. A complete description of the proposed WECS Project and documentation to sufficiently demonstrate that the requirements set forth in Section 13.20.050 will be met.

- I. Certification that the proposed facility will comply with all federal, state, and local standards.
- J. Analysis of local economic benefits, describing estimated: project cost, generated taxes, percent of construction dollars to be spent locally, and the number of local construction and permanent jobs
- K. When land will not be dual use (i.e., wind with agricultural or wind with grazing) the application shall include:
 - a. Weed/Grass Control Plan for property inside and outside the fenced area for the entire property.
 - b. Landscaping Plan which shall incorporate native grasses, flowers, plants which will provide wildlife and pollinator habitat, soil erosion protection and/or aid in strengthening the soil structure.
 - c. Description of changes to agricultural production as a consequence of the facility, if applicable.
- L. Drainage, Erosion, Dust Control, Grading and Vegetation Removal Plan prepared by a Wyoming Licensed Engineer with drainage calculations based on a 25-year storm event unless the location, terrain and topography dictate a higher amount. Drainage, Erosion, Dust Control, Grading and Vegetation Removal Plan to include the following:
 - a. Existing and proposed contours.
 - b. Existing wetlands and floodways.
 - c. Water management structures.
 - d. Drainage flow direction.
 - e. Effects on downstream and upstream properties.
 - f. Effects on irrigation.
 - g. Erosion mitigation and runoff control.
 - h. Dust control plan.
- M. For WECS Project located within five hundred (500) feet of an airport or within approach zones of an airport, applicants shall complete and provide the results of the Obstruction Evaluation / Airport Airspace Analysis (OE/AAA) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Wind energy siting and Projects on Federal Obligated Airports, or most recent version adopted by the FAA.
- N. A written emergency management plan for review and comment to county fire, county emergency management, and the county sheriff.
- O. A waste management plan that includes an inventory of estimated solid wastes and a proposed disposal program for the construction, operation, and eventual decommissioning of the proposed wind energy siting and facility. In addition, as applicable, plans for the spill

prevention, clean-up, and disposal of fuels, oils, and hazardous wastes, as well as collection methods for solid waste generated by the project.

- P. Evidence of adequate legal access and describe how private roadways within the WECS Project will be marked, acknowledge that Platte County is not required to repair, maintain, or accept any dedication of the private roadways to the public use.
- Q. A traffic study of any public roadways leading to and away from the proposed facility.
- R. A project plan indicating the proposed roadways, facility location(s), substation locations, transmission, collector and gathering lines, and all other ancillary facility components.
- S. A site and facility reclamation and decommissioning plan which indicates the planned life of the facility and how the facility and its site will be decommissioned and reclaimed.
 - a. A description of the planned life of the facility.
 - b. Provisions describing the triggering events for decommissioning the WECS Project or any portion thereof upon 18 months of continuous non-operation of the WECS Project or of any aspect of any facility, unless by force majeure.
 - c. A description of the plan to remove the WECS Project equipment and to restore the land to its previous use upon the end of the facility's life.
 - d. Provisions for the removal of structures, debris, associated equipment, and cabling on and below the surface to a level of not less than five (5) feet below the surface, and the sequence in which removal is expected to occur.
 - e. Provisions for the restoration of the soil and vegetation.
 - f. An estimate of the decommissioning costs in future dollars at the time of filing certified by a Wyoming Licensed Engineer who shall use professional standards in compliance with the State of Wyoming law.
 - g. A written financial plan approved to ensure that funds will be available for decommissioning and land restoration.
 - i. Financial Assurance. The applicant shall provide financial assurance in one, or a combination of the following, at the discretion of the County Commissioners: self-bond, a surety bond, a federally insured certificate of deposit, government-backed securities, or cash. Evidence of the selected form(s) of assurance of financial responsibility shall be filed with the County Commission as part of the permit application procedures and prior to the approval of applicant(s) application. The Platte County Commission may reject the proposed forms of assurance of financial responsibility if the evidence submitted does not adequately assure that funds will be available as required by these rules. Applicant(s) shall be notified in writing within sixty (60) days of receipt of the evidence of financial assurance of the decision to accept or reject the proposed forms of financial assurance. If an application is approved, any bond or other form of financial assurance may

be canceled by the surety only after ninety (90) days written notice to the Board of County Commissioners, and upon receipt of the Board's written consent, which may be granted only when the requirements of the bond or assurance have been fulfilled. Financial assurance amount may be recalculated on a yearly basis at the discretion of the Board of County Commissioners.

- ii. Financial Assurance Forfeiture. Bond or other financial assurance forfeiture proceeding shall occur only after the Board of County Commissioners provides notice to the owner(s) or operators(s) and any surety that a violation(s) exists, and the Board has decided to begin forfeiture proceedings. The Commissioners may expend forfeited funds to remedy and abate circumstances with respect to which financial assurance was provided. If the forfeited bond or other financial assurance instrument is inadequate to cover the costs to carry out the remedy or abatement, the County Attorney shall bring suit to recover the costs of performing the activities where recovery is deemed possible.
- h. Identification of and procedures for County access to financial assurances.
- i. Provisions that the terms of the decommissioning plan shall be binding upon the owner or operator and any other successors, assigns, or heirs.
- j. A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning
- k. A provision that the County shall have the right to review and reconsider the WECS Project's Decommissioning Plan at the time of decommissioning, consistent with changes in the land use of the project at that time
- l. Upon review of the Wind Energy Siting and Facility Permit Application, the Platte County Board of Commissioners shall set an amount to be held in bond, escrow, or other acceptable form of funds. The decommissioning plan shall state that the facility owner/operator shall provide Platte County with financial assurance to cover the estimated costs of decommissioning and that the County shall have access to the facility and to the funds to effect or complete decommissioning one (1) year after cessation of operations.
- m. The applicant shall provide the county with a new estimate of decommissioning of the WECS Project every (5) years under the same conditions as forth above.
- T. Wyoming Game and Fish Department (WGF) request for information; the applicant(s) is advised to request information from WGF during initial site selection regarding any crucial or important wildlife and habitat areas that may be present. The applicant should include annual monitoring of wildlife impacts and mortalities, as recommended by the WGF. The applicant will need to assure access to the wind development area for the purposes of

annual wildlife monitoring activities. The County will route the WGF for comment to be reviewed and incorporated into any report and approval.

- U. Archeological and Historical Resources request for approval; the applicant(s) is advised to seek 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 County will route the Wyoming State Historical Preservation Office (SHPO) and any other relevant agencies for comment to be reviewed and incorporated into any report and approval.
- V. Proof of liability insurance; the owner(s) or operator(s) of the WECS Project(s) shall maintain a current general liability policy covering bodily injury and property damage with limits of at least two million dollars (\$2,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate. Evidence of liability coverage must be reported to the Platte County Planning Office on an annual basis, and any loss of coverage must be reported within three (3) working days of loss. Failure to maintain coverage shall be considered a cessation of operations. If the application is approved, the owner(s) or operator(s) of the WECS(s) shall provide proof of insurance to the Board of County Commissioners annually.

Supporting documentation for addressing the review criteria of Sections 13.20.070 of this Chapter and Section 1.35.060 of Chapter 1 is also to be provided. The land use authority may require any information reasonably necessary to determine compliance with this chapter.

Due to the complexity of commercial WECS Project, the County may require a development agreement or other appropriate instrument to address taxing, land use, property assessment, and other issues related to the project. For example, the County is interested in preventing large tax shifts that may otherwise be incurred by county residents each year a centrally assessed wind power facility is depreciated; therefore, cooperation to establish an agreement for payment in lieu of taxes (PILT), or other acceptable solution, may be necessary. A development agreement may be required as a condition of the permit and must be approved by the Board of County Commissioners prior to commencing construction.

Section 13.20.080 - Provisions for Wind Energy Siting and Facility Permit Review.

Following the provisions of Chapter 1 Section 1.35, Platte County Rules and Regulations, additional or more thorough consideration shall be given to the following as the County determines whether the proposed WECS Project. Through the Platte County application review and approval process, the Planning and Zoning Commission and the Board of County Commissioners have the option to approve in whole or in part, approve with conditions or remand the recommendations back to the applicant for consultation with a particular governing body or agency, deny with or without prejudice, postpone to a specific date, or postpone indefinitely.

- A. Project Rationale. Project rationale, including estimated construction schedule, project life, phasing, and likely buyers or markets for the generated energy.
- B. Siting Considerations. Siting considerations, such as avoiding areas/locations with a high potential for biological conflict such as wilderness study areas, areas of environmental concern, county and state parks, historic trails, special management areas or important wildlife habitat or corridors; avoiding visual corridors that are prominent scenic viewsheds, or scenic areas designated by the county; avoiding areas of erodible slopes and soils, where concerns for water quality, landslide, severe erosion, or high storm runoff potential have been identified; and, avoiding known sensitive historical, cultural or archeological resources.
- C. Site and Development Plans. Site and development plans, which identify and/or locate all existing and proposed structures; setbacks; access routes; proposed road improvements; any existing inhabitable structures and residentially zoned lots within one-half (½) mile of a commercial WECS Project; existing utilities, pipelines, and transmission lines; proposed utility lines; utility and maintenance structures; existing topographic contours; existing and proposed drainageways; proposed grading; areas of natural vegetation removal; revegetation areas and methods; dust and erosion control; any floodplains or wetlands; and other relevant items identified by the county staff or planning commission. All maps and visual representations need to be drawn at an appropriate scale.
- D. Analysis of Local Economic Benefits. Analysis of local economic benefits, describing estimated: project cost, generated taxes, percent of construction dollars to be spent locally, and the number of local construction and permanent jobs.
- E. Emergency Management Plan. The Emergency Management Plan shall be supplemented and revised following construction of the WECS Project and prior to its operation if there were any variations in the facility's construction which would materially impact the original Emergency Management Plan.
- F. Visual Impacts, Appearance, and Scenic Viewsheds. Potential visual impacts may be caused by components of the project such as wind towers, cooling towers, steam plumes, aboveground electrical lines, accessory structures, access roads, utility trenches and installations, and alteration of vegetation. Those projects that are within a sensitive viewshed, utilize reflective components, or that propose structures taller than thirty (30) feet must provide a viewshed analysis of the project, including visual simulations of the planned structures and analysis of potential visual impacts. The number of visual simulations shall be sufficient to provide adequate analysis of the visual impacts of the proposal, which shall be from no less than four (4) vantage points that together provide a view from all sides of the project. More visually sensitive proposals (e.g., wind power towers or exposed mirrors in sensitive viewsheds) may require analysis from significantly more vantage points, such as different distances and sensitive locations. The planning commission may also require a Zone of Theoretical Visibility/Zone of Visual Impact (ZVI) Analysis, which is a three hundred

sixty-degree (360°) computer analysis to map the lands within a defined radius of a location that would likely be able to see an object. Significant visual impacts that cannot be adequately mitigated are grounds for denial.

- G. Wildlife Habitat Areas and Migration Patterns. Specifically include information on any use of the site by endangered or threatened species and whether the project is in a biologically significant area. If threatened or endangered species exist in the area, consultation with United States Fish and Wildlife Service (USFWS) and Wyoming Game and Fish will be necessary.
- H. Environmental Analysis. In the absence of a required state or federal agency environmental review for the project, the planning commission may require an analysis of impacts to historic, cultural, and archaeological resources, soil erosion (water and wind), flora, and water quality and water supply in the area, when there is reason to believe that adverse impacts to such may occur.
- I. Solid Waste or Hazardous Waste. As applicable, plans for the spill prevention, clean-up, and disposal of fuels, oils, and hazardous wastes, as well as collection methods for solid waste generated by the project.
- J. Height Restrictions and Hazard Review. Compliance with any applicable airport overlay zone requirements and the ability to comply with FAA and military regulations pertaining to hazards to air navigation must be demonstrated.
- K. Transportation Plan for Construction and Operation Phases. Indicate by description and map what roads the project will utilize during the construction and operation/maintenance phases of the project, along with their existing surfacing and condition. Specify any new roads and proposed upgrades or improvements needed to the existing road system to serve the project (both the construction and O&M periods)—remember to identify needed bridges, culverts, livestock fence crossings (gates and cattle guards), etc. Also identify all areas where modification of the topography is anticipated (cutting/filling) to construct or improve the roadways. Address road improvement, restoration or maintenance needs associated with the construction, ongoing maintenance/repair, and potential dismantling of the project. Provide projected traffic counts for the construction period, broken down by the general type/size of vehicles, and identify approximately how many trips will have oversized or overweight loads. If significant impacts to the transportation system are anticipated, the County may require financial guarantees to ensure proper repair/restoration of roadways or other infrastructure damaged or degraded during construction or dismantling of the project. In such case, the "before" conditions of the roadways and other infrastructure must be documented through appropriate methods such as videos, photos, and written records, to provide a proper reference for restoration. The Board of County Commissioners and the State of Wyoming Department of

Transportation may require the applicant to enter into a reasonable road use agreement for the use of county roads or state highways prior to construction of the facility.

- L. Public Safety. Identify and address any known or suspected potential hazards to adjacent properties, public roadways, communities, aviation, etc., that may be created by the project.
- M. Noise Limitations. Submit sufficient information regarding noise, to demonstrate compliance with Section 13.20.050 H. Noise.
- N. Decommissioning Plan. Describe the decommissioning and final land reclamation plan to be followed the anticipated useful life, or abandonment, or termination of the project, including evidence of proposed commitments with affected parties (county, any lessor or property owner, etc.) that ensure proper final reclamation of the wind energy siting and facility project. Among other things, revegetation and road repair activities should be addressed in the plan. Upon approval of the Wind Energy Siting and Facility Permit and review of the decommissioning plan, the Platte County Board of Commissioners shall set an amount to be held in bond, escrow, or other acceptable form of funds. The decommissioning plan shall state that the facility owner/operator shall provide Platte County with Financial Assurance to cover the estimated costs of decommissioning and that the county shall have access to the facility and to the funds to effect or complete decommissioning one (1) year after cessation of operations. In addition, the applicant shall provide the county with a new estimate of decommissioning of the wind energy siting and facility every (5) years under the same conditions as forth above.
- O. Annual Review and Reporting. The applicant, owner, and/or operator shall submit to the Platte County Planning Office on the first Monday of July each year following project approval a report regarding maintenance and operation of the permitted WECS Project. This report shall include:
 - a. Any physical modifications to the WECS Project and/or its infrastructure.
 - b. Complaints pertaining to setbacks, noise, appearance, safety, lighting, and use of any public roads, received by the applicant, owner and/or operator concerning the wind energy siting and facility, and the resolution of such complaints.
 - c. Calls for emergency services, including the nature of the emergency and how it was resolved.
 - d. Status of liability insurance.
 - e. Any other information that the county may reasonably request.
- P. Additions. Other probable and significant impacts, as identified through the review process.
- Q. If approved. An as-built project plan shall be submitted to the Planning Office to show the final location of all facilities, easements, rights-of-way, and transmission lines.

Section 13.20.090 – Indemnification and Liability.

- A. The applicant, owner, and/or operator of the wind energy siting and facility project shall defend, indemnify, and hold harmless the County of Platte and its officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever, including attorney's fees, without limitations, arising out of acts or omissions of the applicant, owner, and/or operator associated with the construction and/or operation of the wind energy siting and facility project.
- B. The applicant, owner, and/or operator of the wind energy siting and facility project shall maintain a current general liability policy covering bodily injury and property damage with limits of at least two million dollars (\$2,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate. Evidence of liability coverage must be reported to the Platte County Planning Office on an annual basis, and any loss of coverage must be reported within three (3) working days of loss. Failure to maintain coverage shall be considered a cessation of operations.

Section 13.20.100 – Extension and Transfer of Permits.

- A. Extension of Permit: If construction of the wind energy siting and facility has not been commenced or the facility has not become operational as required, the permittee may request the Board of County Commissioners to extend the permit for a period of up to twelve (12) months upon a showing of good cause. The permittee shall provide such information as is necessary for the Board of County Commissioners to determine whether good cause exists for the extension. Good cause may include, but is not limited to, good faith efforts to obtain required authorization for the facility from other agencies with regulatory jurisdiction, delay in construction due to weather conditions, pending litigation, or other causes which have delayed the project, and which are beyond the reasonable control of the Permittee. The Permittee may request not more than two (2) separate extensions, with such total extension period not to exceed twenty-four (24) months.
- B. Transfer of Permit: Wind Energy Siting and Facility Permits may not be transferred without the prior approval of the Board of County Commissioners. The Board of County Commissioners may transfer a Wind Energy Siting and Facility Permit upon receipt of a written request from the current permit holder, accompanied by a written acceptance of all terms and conditions of the Wind Energy Siting and Facility Permit by the prospective transferee. Request for transfer will be reviewed by the Planning Office, County Attorney's Office, Planning and Zoning Commission, and Board of Commissioners.

Section 13.20.110 – Remedies.

- A. The applicant's, owner's, or operator's failure to materially comply with any of the above provisions shall constitute a default under these Regulations.

- B. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the owner(s) and operator(s), setting forth the alleged default(s). Such written notice shall provide the owner(s) and operator(s) a reasonable time, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).
- C. If the County determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County regulation provisions addressing the resolution of such default(s) shall govern.
- D. When a decision is issued after hearing on an application for a permit under this article, the decision is final for purposes of judicial review.
- E. 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.
- F. The provision of these Regulations is enforceable by all appropriate legal remedies including but not limited to injunctive relief or a writ of mandamus.

Section 13.20.120 – Regulations and Design Standards - Non-Commercial.

Non-Commercial WECS shall be allowed as an Accessory Structure to an existing or proposed primary use in all zoning districts and shall be permitted by the issuance of an approved building certificate when applicable, as defined herein, or by the issuance of a Special Use Permit.

- A. Approval as an Accessory Structure with only a building certificate is subject to compliance with the standard applications requirements and compliance with all the following Non-Commercial WECS as set forth below, except for manufacturer designed roof mounted units which will comply only to A-2 and A-6 through A-15 below:
 - a. Minimum Parcel Size and Total Height. The minimum parcel size to establish a Non-Commercial WECS is one acre and the maximum tower height on a parcel less than five (5) acres in size is sixty feet (60'). Parcels between five (5) and thirty-five (35) acres in size shall have a maximum tower height of one hundred feet (100'). Parcels of thirty-five (35) acres and larger shall have a maximum tower height of one hundred forty feet (140'). Any proposal that will exceed these standards will require an approved Special Use Permit prior to issuance of a building certificate.
 - b. Noise. WECS shall not exceed 40 dbA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe winds storms.
 - c. Setbacks. The WECS shall be setback one hundred and ten percent (110%) of the combined height of the tower plus the length to the tip of the blade from all adjacent property lines.

- d. Clear Zone. The WECS shall maintain a circular clear zone that has a radius which is equivalent to one hundred and ten percent (110%) of the combined distance of the tower height plus the length to the tip of the blade. This clear zone shall be maintained free of any occupied structure, tanks containing combustible/flammable liquids and above ground utility/electrical lines. The clear zone may be waived if the anchoring system for the structure is certified by a Wyoming Licensed Engineer.
- e. Tower Security. Any climbing apparatus must be located at least twelve feet (12') above the ground, and the tower must be designed to prevent climbing within the first twelve feet (12').
- f. Lighting. Wind energy systems shall not be artificially lighted with accent lighting. Wind energy systems must be lighted in accordance to the regulations and guidelines of the Federal Aviation Administration (FAA) regulations or appropriate authorities.
- g. Signs/Advertising. No tower shall have any sign, writing or picture that may be construed as advertising.
- h. Colors. All towers shall be an FAA approved neutral color and be non-reflective.
- i. Multiple WECS. Multiple WECS are allowed on a single parcel as long as the owner/operator complies with all Non-Commercial WECS Regulations contained herein. Units shall be installed in compliance with minimum setbacks and clear zone requirements and the minimum distance between wind energy systems shall be equivalent to one hundred and ten percent (110%) of the combined height of the tower plus the blade length.
- j. Approved Wind Turbines. At the time of application, the applicant must present a certification from the manufacturer that the system's turbine and other components equal or exceed the standards of one of the following national certification programs such as the: California Energy Commission, National Electrical Code (NEC), American National Standards Institute (ANSI) or other small wind certification program recognized by the American Wind Energy Association.
- k. On-site Electrical Use. On the application, the application must certify that the proposed system will be used primarily to reduce on-site consumption of electricity.
- l. Compliance with FAA Regulations. Non-Commercial WECS must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
- m. Utility Notification. Permit applications for Non-Commercial WECS shall be accompanied by evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

- n. Removal of Defective or Abandoned WECS. Any WECS found to be unsafe by an authorized County official, or delegated party, shall be repaired by the owner to meet federal, state, and local safety standards or removed within six (6) months.
 - o. Cessation of Operation. If any WECS is not operated for a continuous period of twelve (12) months, the County will notify the landowner by registered mail and provided thirty (30) days for a response. In such a response, the landowner shall set forth reasons for operational difficulty and provide a reasonable timetable for corrective action. If the County deems the timetable for corrective action unreasonable, they must notify the landowner and such landowner shall remove the turbine within one hundred twenty (120) day of receipt of notice.
 - p. Maintaining compliance. All applicable Federal, State, and local regulations shall be met and continually maintained for all WECS.
- B. A Special Use Permit is required for any Non-Commercial WECS that exceeds the standards defined in A.1. or any other standard listed herein.