

CONVERSE COUNTY WYOMING



WIND AND/OR SOLAR ENERGY SITING REGULATIONS

(FOR FACILITIES WITH GROSS GENERATION OF MORE THAN 0.5 MW)

RESOLUTION NO. 19-20
Converse County Board of Commissioners

**A RESOLUTION SUPERSEDING RESOLUTION 10-10 AND ADOPTING
CONVERSE COUNTY WIND AND/OR SOLAR ENERGY SITING REGULATIONS**

WHEREAS, pursuant to Wyoming Statutes § 18-5-501 through § 18-5-513, the Converse County Commissioners have promulgated the Converse County Wind and/or Solar Energy Siting Regulations for all lands located outside the corporate limits of municipalities in Converse County; and

WHEREAS, the adoption of Wind and/or Solar Energy Siting Regulations shall promote public health, safety, convenience and general welfare within Converse County, and

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners, Converse County, Wyoming, that the Converse County Wind and/or Solar Energy Siting Regulations be approved and adopted as amended.

PASSED, APPROVED AND ADOPTED THIS 2nd day of September 2020.

**BOARD OF CONVERSE COUNTY
COMMISSIONERS**



Robert G. Short, Chairman



ATTEST: 

Karen Rimmer, Converse County Clerk

**APPLICATION FOR WIND AND/OR SOLAR ENERGY
FACILITY PERMIT**
(PURSUANT TO W.S. 18-5-501 THROUGH 18-5-513)
FOR FACILITIES WITH GROSS GENERATION OF MORE THAN 0.5 MEGAWATTS

(FOR OFFICE USE ONLY)

PROJECT NAME / NUMBER: _____

DATE RECEIVED: _____

PERMIT FEE / AMOUNT PAID: _____

DATE PERMIT FEE PAID: _____

PLANNING COMMISSION MEETING DATE(S): _____

RECOMMENDATION OF PLANNING COMMISSION: _____

COUNTY COMMISSIONERS' PUBLIC HEARING DATE: _____

COMMISSIONERS' PUBLIC HEARING TIME: _____

DECISION BY COUNTY COMMISSIONERS: APPROVED DENIED

CHAIRMAN OF COUNTY COMMISSIONERS:

_____ (SIGNATURE)

_____ (PRINTED NAME)

_____ (DATE)

ATTEST:

COUNTY CLERK

WIND AND/OR SOLAR ENERGY PERMIT APPLICATION

NOTE: Each addition or phase of a project must receive separate approval and a separate application for each addition or phase must be submitted for consideration.

1. Name of Applicant: _____

Phone #: _____ Fax #: _____

Mailing Address: _____

Email: _____

Relationship of Applicant to Property: _____

(Owner, Tenant, Lessee, Other)

2. A description of the Applicant, Owner and Operator, including their respective business structures

Name of Authorized Agent: _____

Phone #: _____

Email: _____

3. Legal Description of the location of the proposed wind and/or solar project (please use additional sheets if necessary)

4. Submit map of project boundary.

5. The following items shall be submitted as a project summary with all wind and/or solar project applications:

- a. Certification that demonstrates reasonable efforts have been undertaken by the applicant to provide notice, in writing, to all owners of land within one (1) mile of the proposed wind and/or solar project boundary, to the department of transportation and to all cities and towns located within twenty (20) miles of the wind and/or solar project boundary. Notice shall include a general description of the project including its location, projected number and capacity of turbines and/or solar panels, anticipated date(s) for commencement of construction and operations, the likely routes of ingress and egress and the likely location of electric transmission and other facilities.
- b. Certification that landowners along the path of any new transmission lines have been notified in writing.

Additionally the following shall be submitted:

- i. The name(s), address(es), phone number(s) and email(s) of the Applicant(s), Owner(s) and Operator(s), and names and addresses of all participating property owner(s) owning land included in the project;
- ii. The name(s) and address(es) of all non-participating adjacent property owner(s) within one (1) mile of the wind and/or solar project boundary;
- c. Certification that the proposed wind and/or solar energy facility (hereinafter referred to as facility) will comply with all the standards required by W.S. 18-5-504.
- d. Certification that the proposed facility will comply with all the applicable zoning and county land use regulations, which regulations shall be no less stringent than the standards required by these regulations.
- e. Certification that a written emergency management plan has been submitted for review and comment to the Converse County Fire Warden, the Converse County Emergency Management Coordinator and the Converse County Sheriff.

This plan should include information regarding whether there is a high likelihood for communication interference with local emergency services or local broadcast of residential television, including possible measures for mitigation of potential communication issues if there is a high likelihood for such communication services to be adversely affected.

If the permit is granted, the plan shall be supplemented and revised following construction of the facility and prior to its operation if there are any variations in the facility's construction which would materially impact the original emergency management plan.

- f. Provide a waste management plan that includes an inventory of estimated solid wastes, and a proposed disposal program for the following:
 - i. The construction and operation of the proposed facility
 - ii. The eventual decommissioning of the proposed facility
- g. Provide evidence sufficient for the Converse County Commissioners to determine if the proposed facility has adequate legal access for the following:
 - i. Roads
 - ii. Transmission lines
 - iii. Any other ingress or egress
- h. The application also shall describe how private roadways within the facility will be marked as private roadways and shall acknowledge that Converse County will not accept any dedication of the private roadways to the public use, nor is Converse County responsible for any repairs or maintenance of the private roadways. The application also shall include a current traffic study utilizing traffic count data collected within the last six months, stamped by a Wyoming Professional Engineer, of any public roadways leading to and away from the proposed facility. The Converse County Commissioners and the 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;
- i. Provide a project plan indicating the proposed roadways, tower locations, solar panel locations, substation locations, transmission, collector and gathering lines and other ancillary facility components whether inside or outside the project boundary. If the application is granted, the Converse County Board of Commissioners shall require that the project plan be revised to show the final location of all facilities. The project plan should include the following:

A site plan for the installation of the facility showing the planned location of each wind tower, solar panel, primary structure(s), property lines (including identification of adjoining properties), setback lines, public & private access roads and turnout locations, substation(s), electrical cabling from the wind tower to the substation(s), ancillary equipment, transmission lines, existing transmission corridor(s), the layout of all significant structures within the geographical boundaries of any applicable setback and any designated Greater Sage Grouse Core Population Areas;

A general description of the facility, including its approximate total name plate generating capacity; the potential equipment manufacturer(s) and type(s) of wind tower(s), number of wind towers, the name plate generating capacity of each wind tower; the maximum height of the wind tower(s) and maximum diameter of the wind tower rotor(s), the potential manufacturer(s) and type(s) of solar panels, number of solar panels, the name plat generating capacity of each solar panel and the size of each solar panel.

If this permit is granted, it will be for the equipment described within this permit.

- j. Certification that there shall be no advertising or promotional lettering on any solar energy facility, tower, turbine, nacelle or blade beyond the manufacturer's or the applicant's logo on the solar energy facility or the nacelle of the turbine;
- k. Provide a site and facility reclamation and decommissioning plan which indicates the planned life of the 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 owner of land within the 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 W.S. 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;
- l. Bonding may be required for facility reclamation and decommissioning for facilities not meeting W.S. 35-12-102.
- m. For wind energy facilities and solar energy facilities not meeting the definition of an industrial facility as defined in W.S. 35-12-102 (a) (vii) (E) or (G), provide a detailed summary of any significant adverse environmental, social or economic effects that the proposed facility may have together with any preliminary plans developed to alleviate any of the adverse effects.
- n. A facility subject to these regulations shall meet the requirements adopted pursuant to W.S. 35-12-105 (d) and (e) regardless of whether the facility is referred to the industrial siting council pursuant to W.S. 18-5-509 or is otherwise subject to the industrial siting act.

Minimum Standards. (W.S. 18-5-504)

NOTE: For all references to tower height, the height shall be measured from the base of the tower to the tip of the blades at the highest height.

- 1. The Converse County Board of Commissioners shall not issue a permit for a facility if that facility:
 - Does not comply with standards properly adopted by the Converse County Board of Commissioners for the construction of wind energy facilities and/or solar energy facilities, which standards shall not be less stringent than the standards required by W.S. 18-5-501 through 18-5-513;

For wind energy facilities:

- a. Would locate the base of any tower at a distance of less than one hundred ten percent (110%) of the maximum height of the tower from any property line contiguous or adjacent to the facility, unless waived in writing by the owner of every property which would be located closer than the minimum distance;
- b. Would locate the base of any tower at a distance of less than one hundred ten percent (110%) of the maximum height of the tower from any public road right-of-way;
- c. Would construct any tower or other structure, other than underground structures, transmission lines, roadways and structures appurtenant to roadways, at a distance of less than five and one-half (5.5) times the maximum height of the tower, but in no event less than one thousand (1,000) feet 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;
- d. Would locate the base of any tower at a distance of less than five and one-half (5.5) times the maximum height of the tower from a residential dwelling or occupied structure, unless waived in writing by the person holding title to the residential dwelling or occupied structure. If waivers are obtained, supply copies of these waivers. In no case shall the distance from the base of any tower be located less than one hundred ten percent (110%) of the maximum height of the tower from a residential dwelling or occupied structure.
- e. Would locate the base of any tower at a distance of less than one-half (1/2) mile from the limits of any city or town.

For solar energy facilities:

- a. Would locate the facility within three hundred (300) feet of an occupied structure or residence unless waived in writing by the owner of the structure or residence;
 - b. Would locate solar panels within one hundred (100) feet of any outer boundary of the project;
 - c. Would locate the facility less than two hundred (200) feet from any public road right-of-way.
2. No rule, regulation or law promulgated or applied by any county in this state shall adopt a standard less stringent than the minimum standards established in subsection 1 of this section. The minimum standards stated in subsection 1 of this section shall be incorporated into every existing or future county permitting or licensing process to which they are applicable so that no applicant for a permit under this article is required to submit more than one (1) application addressing these standards to the County.

3. Converse County shall not issue a permit under W.S. 18-5-502(a) until Converse County has adopted rules and regulations governing the notice that the application for a permit must provide to the record owners and claimants of mineral rights located on and under lands where the facility will be constructed. The rules shall conform to rules adopted by the industrial siting council for the same purpose pursuant to W.S. 35-12-105.

Procedure for Processing

1. The permit application and corresponding fees must be received in the Converse County Special Projects Office.
2. The applicant shall submit twelve paper copies of the permit application as well as one (1) file of the permit in PDF format.
3. The Converse County Special Projects Office will forward the permit application to the Converse County Planning & Zoning Commission members.
4. The Converse County Planning & Zoning Commission will meet to review the completeness of the submitted permit application.
5. If the permit is determined to be incomplete, the Converse County Planning & Zoning Commission will outline the additional information which is required.
6. The Converse County Planning & Zoning Commission will forward the permit application to the Converse County Board of Commissioners with a recommendation of approval or a recommendation of denial.

Complete applications; notice. (18-5-505)

Upon receipt of an application, the Converse County Board of Commissioners shall conduct a review of the application to determine if it contains all the information required by W.S. 18-5-503 and any applicable rules and regulations. If the Converse County Board of Commissioners determines that the application is incomplete, they shall within thirty (30) days of receipt of the application notify the applicant of the specific deficiencies in the application. The applicant shall provide the additional information necessary within thirty (30) days of receipt of a request for additional information from the Converse County Board of Commissioners. When the Converse County Board of Commissioners determines that the application is complete it shall notify the applicant that the application is complete and shall provide notice of the date and time at which the hearing required by W.S. 18-5-506 will be conducted.

Hearing and public comment. (18-5-506 and 18-5-503(a)(ii))

The Converse County Board of Commissioners shall hold a public hearing to consider public comment on the application to permit a facility no less than forty-five (45) days and not more than sixty (60) days after determining that the application is complete. Written comment on the application shall be accepted by the Converse County Board of Commissioners for not less than forty-five (45) days after determining that the application is complete.

The applicant shall provide certification that notice of the proposed facility, as a display ad, was published in a newspaper of general circulation in Converse County at least twenty (20) days prior to the public hearing with the Converse County Commissioners as required by W.S. 18-5-506. The display ad shall include a brief summary of the facility, invite the public to submit comments and identify the time and date of the hearing. Provide the Special Projects Office with a copy of the publisher's affidavit following publication.

Decision of the Board of Commissioners; findings necessary. (18-5-507)

1. Within forty-five (45) days from the date of completion of the hearing required by W.S. 18-5-506, the Converse County Board of Commissioners shall make complete findings, issue an opinion, render a decision upon the record either granting or denying the application and state whether or not the applicant has met the standards required by these regulations. The decision shall be subject to the remedies provided in W.S. 18-5-508. The Converse County Board of Commissioners shall grant a permit if it determines that the proposed facility complies with all standards properly adopted by the Converse County Board of Commissioners and the standards required by these regulations.
2. No permit shall be granted if the application is incomplete or if all notices required by W.S. 18-5-503 have not been timely given.
3. A copy of the Converse County Board of Commissioners' decision shall be served upon the applicant.

Remedies. (W.S. 18-5-508)

1. Any party aggrieved by the final decision of the Converse County Board of 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 hearing on an application for a permit under these regulations, the decision is final for purposes of judicial review.

Referral. (W.S. 18-5-509)

1. If the Converse County Board of Commissioners receives an application to permit a wind energy facility or solar energy facility which does not meet the definition of an industrial facility as defined in W.S. 35-12-102 (a)(vii) (E) or (G), they may refer the facility to the industrial siting council for additional permitting consistent with the requirements of the Industrial Development Information and Siting Act, W.S. 35-12-101 through 35-12-119, but the provisions of W.S. 39-15-111 and 39-16-111 shall not apply. A referral shall be made only when the Converse County Board of Commissioners find there are potentially significant adverse environmental, social or economic issues which the Converse County Board of Commissioners does not have the expertise to consider or authority to address.

2. Any facility referred to the industrial siting council under this section may apply to the council for a waiver of permit application pursuant to W.S. 35-12-107.
3. Upon receiving a referral pursuant to this section and within fifteen (15) days after receipt of the referral, the director of the department of environmental quality may reject the referral by giving written notice of the rejection to the county making the referral and the applicant. No appeal from the decision of the director under this subsection shall be allowed.
4. A referral made pursuant to this section shall not relieve the Converse County Board of Commissioners from its obligation to consider whether the proposed facility should be permitted under the standards required by these regulations.
5. A referral made pursuant to this section shall be made no later than thirty (30) days after an application is deemed complete pursuant to W.S. 18-5-505.

Binding effect. (W.S. 18-5-510)

Upon referral of a facility to the industrial siting council pursuant to W.S. 18-5-509, the facility shall not be withdrawn from the council's consideration without consent of the council. Any decision by the council shall be final except as provided in these regulations or pursuant to the remedies provided to other facilities permitted by the council.

Revocation or suspension of permit. (W.S. 18-5-511)

A permit may be revoked or suspended for:

1. 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;
2. Failure to comply with the terms or conditions of the permit after notice of the failure and reasonable opportunity to correct the failure;
3. Violation of these regulations, the rules and regulations adopted pursuant to these regulations or valid orders of the Converse County Board of County Commissioners or the industrial siting council;
4. Failure of the proposed facility to receive a required permit from the industrial siting council pursuant to the Industrial Development Information and Siting Act, W.S. 35-12-101 through 35-12-119; or

5. Failure of the permitted wind energy facility to:
 - a. Transmit electricity created by wind energy for a period of two (2) consecutive years or more;
 - b. Maintain land rights necessary to operate the wind energy facility.
6. Failure of the permitted solar energy facility to maintain land rights necessary to operate the solar energy facility.

Penalties for violations. (W.S. 18-5-512)

1. No person shall:
 - a. Commence to construct a wind energy facility on or after July 1, 2010 or a solar energy facility on or after July 1, 2020 without first obtaining a permit required by these regulations;
 - b. Construct, reconstruct, operate, locate, erect, maintain, enlarge, change or use a facility, after having first obtained a permit, other than in specific compliance with the permit; or
 - c. Cause any of the acts specified in this subsection to occur.
2. Any person violating subsection (1) of this section is liable for a civil penalty of not more than ten thousand dollars (\$10,000.00) for each violation. Each day of a continuing violation constitutes a separate offense.
3. Any wind turbine tower, wind generator erected or portion thereof or any solar energy panel or facility or portion thereof erected in violation of these regulations 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.
4. Any penalties collected pursuant to this section shall be paid and credited as provided by W.S. 8-1-109.

Fees. (W.S. 18-5-513)

The Converse County Board of Commissioners upon receipt of an application under these regulations for the permitting of a wind energy facility shall charge the applicant a fee of \$5,000 minimum or \$250 per tower whichever is greater. The application fee for solar energy facilities shall be \$3,000 for 501 to 1000 kW of energy generated, \$5,000 for 1001 to 2000 kW of energy generated and \$10,000 for 2001 kW or greater of energy generated. The Converse County Board of Commissioners shall charge the applicant these permit fees to cover the anticipated administrative costs of processing and considering the application, conducting public hearings and overseeing compliance with the permit conditions and requirements.

Severability.

If any part, term, or provision of these regulations shall be held void, illegal, unenforceable, or in conflict with any law of a Federal or State government having jurisdiction over these regulations, such part, term, or provision thereof shall be severed from these regulations and the other provisions shall remain in full force and effect.