

RESOLUTION 95- 2021

A ZONING RESOLUTION ADOPTING REGULATIONS GOVERNING WIND AND SOLAR POWER GENERATION FACILITIES IN ALL UNINCORPORATED PORTIONS OF WASHINGTON COUNTY

WHEREAS, the development of wind and solar power generation facilities and associated power lines is a rapidly developing and evolving industry across Colorado and particularly in unincorporated areas with substantial open agricultural land;

WHEREAS, the use of agricultural and other large tracts of land for wind and solar power generation facilities has a significant impact on the health, safety and welfare of the citizens of Washington County (the "County") in a number of ways, including without limitation impacted views, loss of land for traditional agricultural uses, increased noise and traffic, reduced, fragmented, or degraded habitat for wildlife, fish, noxious weeds and other disturbances, and potential impacts on air, water, soil, floodplains, water, storm water, drainage and erosion control, and commitment to agricultural production;

WHEREAS, in its role administrating the County transportation system, the County is concerned about the potential increased impacts due to increased wear and tear on roads from heavy truck traffic used to install and maintain wind and solar facilities resulting in greater need for road and bridge improvements and maintenance;

WHEREAS, the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101 *et seq.*, provides the County with the broad authority to plan for and regulate the use of land in order to provide for orderly development while balancing the health, safety and welfare of its citizens;

WHEREAS, the Local Government Land Use Control Enabling Act authorizes local governments within their respective jurisdictions to plan for and regulate the use of land by, among other actions, regulating development and activities in hazardous areas; protecting land from activities that would cause immediate or foreseeable material danger to significant wildlife habitat; regulating the use of land on the basis of the impact thereof on the community or surrounding areas; and otherwise planning for and regulating the use of land so as to provide for the planned and orderly use of land;

WHEREAS, the Board believes it has a responsibility to its residents to plan for and regulate the use of land for the purposes laid out in the Local Government Land Use Control Enabling Act as well as those purposes specified in other applicable state and federal statutes and common law grants of authority, and to promote the health, safety and general welfare of its residents;

WHEREAS, the Board, pursuant to its land use authority, has from time to time adopted planning, zoning and other regulations governing land use in the unincorporated portions of the County;

WHEREAS, the County currently has limited zoning regulations addressing wind and solar power generation facilities, which are set forth in the County's 2004 Use by Special Review Regulations; and

WHEREAS, therefore, the Board of County Commissioners desires to adopt comprehensive regulations governing the wind and solar power generation facilities.


NOW BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, COLORADO:

1. The Washington County Wind Energy Conversion Systems Zoning Regulations attached hereto as **Exhibit A** are hereby adopted.
2. The Washington County Solar Power Production Zoning Regulations attached hereto as **Exhibit B** are hereby adopted.
3. The provisions addressing wind generation facilities currently set forth in the County's Use by Special Review Regulations are hereby deleted as shown in **Exhibit C**.

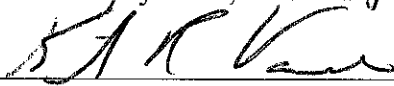
The foregoing resolution was presented by Commissioner Vance for its adoption. Motion was seconded by Commissioner Wells and upon call of the roll, all votes being aye, the Resolution was duly adopted.

DATED this 5th day of October, 2021.

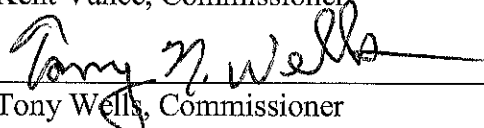
**BOARD OF COUNTY COMMISSIONERS
WASHINGTON COUNTY, COLORADO**



Lea Ann Laybourn, Chairman



Kent Vance, Commissioner



Tony Wells, Commissioner





Annie Kuntz, Clerk to the Board

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EXHIBIT A

I. INTENT AND PURPOSE.

These regulations are intended to protect the health, safety and welfare of the residents of the County and to encourage the safe, effective, efficient and orderly development and operation of wind energy resources in the County while preserving and protecting the character and the stability of residential, agricultural, recreational, commercial, industrial and other areas within the County.

II. DEFINITIONS.

Adverse Sound Character: Sound that causes building rattle, is impulsive, tonal, includes amplitude modulation, or has a low-frequency bass rumble.

Aircraft Detection Lighting Systems: A lighting system designed for WCES and other similar facilities that monitors airspace around such facilities and automatically issues signals to activate lighting warning approaching aircraft of the obstructions in a timely manner, and that complies with all applicable laws and regulations, including without limitation FAA requirements.

Ambient: Ambient is defined as the sound level existing or present on all sides over a 96 hour measurement period with daytime/nighttime division.

Anemometer: An instrument for measuring and recording wind speed.

Anemometer Tower: means a structure, including all guy wires and accessory facilities, on which an anemometer is mounted, that is fifty (50) feet in height above the ground or higher, is not located within the boundaries of a municipality, and whose appearance is not otherwise regulated by state or federal law.

ANSI: the American National Standards Institute.

Audible: The varying degrees of sound perception as reported by affidavit, including, but not limited to, just perceptible, audible, clearly audible, and objectionable.

dB: The A-weighted sound level.

Decibel (dB): The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 microPascals); abbreviated "dB."

Emergency work: Any work or action necessary to deliver essential services in an emergency situation, including, but not limited to, repairing water, gas, electricity, telephone and sewer facilities and public transportation, removing fallen trees on public rights-of-way, and abating life-threatening conditions.

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Equivalent Sound Level (or Leq): The sound level measured in decibels with an integrating sound level meter and averaged on an energy basis over a specific duration.

FAA: The Federal Aviation Administration

GIS: Geographic Information System and is comparable to GPS (global positioning system) coordinates.

IEC: The International Electrotechnical Commission

ISO: The International Organization for Standardization

Lease Unit Boundary: The boundary around a property or properties leased or purchased for purposes of operating a wind energy facility, including leased or purchased adjacent parcels to the parcel on which the wind energy facility tower or equipment is located.

Licensed Microwave Search and Worst-Case Fresnel Zone (WCFZ) analysis: An analysis to evaluate the potential effect of the WECS on existing microwave telecom systems.

Occupied Building: A building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other building where people are accustomed to assemble.

On Site Wind Energy Conversion System (also called Small Scale): A wind energy conversion system less than 80 feet in total height with the blade fully extended (tip height) not to include on site building structures intended to generate electric power from wind solely for the use of the site on which the system is located. Small-scale WECS are primarily intended to provide on-site power, but may contribute surplus energy to the grid.

Pasquill Stability Class: Reference, wikipedia.org "Outline of air pollution dispersion."

Power line: An electric line or any voltage used within an SPPF or WECS.

Quiet Rural or Residential property: Any property where there is an inherent expectation of quiet, including, but not limited to, all residential, single family homes, and retirement homes.

SCADA: Supervisory Control and Data Acquisition (SCADA) is a system of software and hardware elements that allows industrial organizations to control industrial processes locally or at remote locations, monitor, gather, and process real-time data, directly interact with devices such as sensors, valves, pumps, motors, and more through human-machine interface (HMI) software.

Sound level meter: An instrument for the measurement of sound levels that meets the ANSI requirements of S1.4-1983 (or later revision) for Type 1 or 2 instruments. For frequency analysis, octave and 1/3 octave filters shall conform to ANSI S1.11-1986 (or later revision).

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Sound Pressure: An average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

Sound Pressure Level: The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

Strobe Effect: The effect resulting from the flashing of reflected light, which can be visible from some distance, from the surface finish of turbine blades.

Survival Wind Speed: The maximum wind speed, as designated by the WECS manufacturer, at which a WECS in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.

Tip Height: The height of the turbine with a blade at the highest vertical point.

Transmission line: A power line carrying or distributing electricity generated by a WECS or SPPF to a point of interconnection on the public electrical grid system. Transmission Line, as defined herein, does not include transmission lines or other facilities built, owned, and operated by public utilities as defined per C.R.S. 40-1-103. capable of carrying at least sixty-nine thousand volts of electricity or a power line distributing the electricity from the generating facilities of a WECS to the public electrical grid.

Utility Scale (also known as Commercial and/or Large-Scale) Wind Energy Conversion System: A wind energy conversion system greater than eighty (80) feet in total height (tip height) intended to generate power from wind primarily to supplement the greater electric utility grid. Utility-scale WECS include accessory uses such as, but not limited to, SCADA towers, anemometers, or electric substations.

WECS Applicant: The person, firm, corporation, company, limited liability corporation or other entity, as well as the Applicant's successors, assigns and/or transferees, which applies for County approval (permit) to construct a WECS and WECS Testing Facility. An Applicant must have the legal authority to represent and bind the Pooled Parcel, or lessee, who will construct, own, and operate the WECS or Testing Facility. The duties and obligations regarding a zoning approval for any approved WECS or Testing Facility shall be with the WECS or Testing Facility owner, and jointly and severally with the owner, operator, and lessee of the WECS or Testing Facility if different than the WECS owner.

Wind Energy Conversion System (WECS): Any combination of the following with the exception of those solely serving local agricultural operations:

- (a) A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;

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- (b) A surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical power;
- (c) A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device;
- (d) The generator, alternator, or another device to convert the mechanical energy of the surface area into electrical energy;
- (e) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.
- (f) Any other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system.

Wind Energy Conversion System (WECS) Testing Facility: A structure and equipment such as a meteorological tower for the collection of wind data and other meteorological data and transmission to a collection source, shall not be deemed to be a communication tower.

Wind Energy Facility: Clusters of two or more Utility Grid Wind Energy Conversion Systems, placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the Wind Energy Conversion Systems are located. Said Wind Energy Conversion Systems may or may not be owned by the owner of the property upon which they are placed.

III. ON-SITE WIND ENERGY CONVERSION SYSTEM STANDARDS (ALSO CALLED SMALL SCALE)

Small scale On-Site WECS, including Anemometer Towers, are not subject to the regulations set forth herein. The application for a small scale WECS shall be reviewed in accordance with all applicable requirements in site plan review and special use requirements for Small Scale Electrical Generation Wind Towers a Use by Special Review application.

IV. UTILITY SCALE ENERGY CONVERSION SYSTEM STANDARDS (ALSO CALLED LARGE SCALE)

A. Where Permitted. Utility Scale WECS shall be considered special uses. If the property upon which the WECS borders a municipal boundary, WECS shall adhere to setback requirements established by the adjacent municipality if more strict than the setback requirements established in Section IV(C)(2) *Setbacks*.

B. Required Information

- (1) **Diagram** of wind turbine showing blade length and ground clearance.

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- (2) **Engineering data** concerning construction of the tower base, including:
- i. Construction materials
 - ii. Depth of the base
 - iii. Analysis of impact on water table, nearby wells, and ground water
 - iv. The Applicant shall provide certification with documentation (structural analysis) including calculations that the WECS and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads.
 - v. A copy of a geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for the proposed WECS site.
- (3) **Site Plan.** The Applicant shall submit a site plan in full compliance with these regulations. The Applicant shall also submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards, as well as information regarding health, welfare and safety in areas including, but not limited to, noise, vibration, shadow flicker, and blade ice deposits. This information shall also address the potential for the WECS to structurally fail or collapse, and what results should be expected in such an event. The application for a WECS shall be reviewed in accordance with all applicable requirements in site plan review and special use requirements of these regulations. In addition to these requirements, site plans and supporting documents for WECS shall include the following additional information, as appropriate:
- i. Documentation that noise emissions, construction code, tower, and safety requirements have been reviewed by the appropriate third-party professional and the submitted site plan is prepared to show compliance with these issues.
 - ii. Proof of the applicant's public liability insurance.
 - iii. A copy of that portion of all the applicant's lease(s) with the land owner(s) granting authority to install the WECS and/or Anemometer Tower; legal description of the property(ies), Lease Unit(s); and the site plan showing the boundaries of the leases as well as the Lease Unit Boundary.
 - iv. An un-redacted safety manual from the turbine manufacturer and a statement from the applicant verifying that the WECS is or will be operated in compliance with all requirements therein.

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- v. The phases, or parts of construction, with a construction schedule.
- vi. The project area boundaries.
- vii. The location, height, and dimensions of all existing and proposed structures and fencing.
- viii. Engineering data concerning construction of the tower base.
- ix. The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest County or State maintained road.
- x. A description of the routes to be used by construction and delivery vehicles and of any road improvements that shall be necessary in the County to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the WECS.
- xi. All new infrastructure above and below ground related to the project, including transmission line locations.
- xii. A copy of Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- xiii. Description of operations, including anticipated regular and unscheduled maintenance.

(4) Required Studies

- i. **Economic Impact Study Required.** The Applicant shall fund and provide an economic impact study for the area affected by the WECS project. Such a study shall include probable financial impact regarding jobs, tax revenue, lease payments and property values at a minimum and average set-backs distances. Business and residential growth potential shall be considered. The study shall include, without limitation, the following:
 - (a) The amount of property taxes to be generated by the project.
 - (b) The amount of sales taxes to be generated by the project.
 - (c) The amount of other applicable taxes to be generated by the project.
 - (d) The construction dollars to be spent locally.
 - (e) The number of construction jobs and estimated construction payroll.

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- (f) The number of permanent jobs and estimated continuing payroll.
- (g) Costs associated with the impact on roads or other County infrastructure in the project area.
- ii. **Flicker Study.** A shadow flicker study shall be required, and shall be submitted by the applicant with the application. Assumptions regarding the percentage of time that shadow flicker is likely to occur shall be clearly explained and subject to approval of the Planning Commission. The shadow flicker study shall include a map that indicates the extent of shadow flicker, public roads, and all potential shadow flicker receptors.
- iii. **Environmental Analysis.** In the absence of a required environmental analysis by a state or federal agency which encompasses the entire project area, provide a project impact review and a proposed impact mitigation plan. The project impact review and mitigation plan shall address all of the following:
 - (a) Wildlife and wildlife habitat on the site and in a biologically significant area surrounding the site.
 - (b) Any endangered or threatened species on the site and in a biologically significant area surrounding the site.
 - (c) Avian population, including migratory birds.
 - (d) Flora on the site.
 - (e) Soil erosion and drainage, to be coordinated with the local soil conservation district.
 - (f) Water quality and water supply in the area.
 - (g) Historic, cultural or archaeological resources within wind farm project area.
 - (h) Dust from project activities, and dust mitigation.
 - (i) A wind development application shall adhere to and comply with all guidelines and best practice recommendations made by the United States Fish and Wildlife Service (USFWS) regarding the siting, design, and operation of a wind energy conversion system to protect the natural resources of watersheds, wetlands and wildlife. The application shall include documentation of all studies, consultation, and recommendations made by or with the USFWS regarding the placement of wind turbine generators and operation of the wind energy conversion system.

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(j) The compatibility of the tower structure with the rotors and other components of the conversion systems shall be certified by a certified, registered engineer and by the authorized factory representative. In addition, the lowest point of the blade shall be a minimum of one hundred (100) feet above the ground.

C. Regulations

(1) **Height.** Utility-scale WECS shall have a maximum height of 500 feet or less; except where state and federal regulations may require a lesser height unless approved by the Planning and Zoning Commission and with the consent of the owners of neighboring properties located within 1/2 mile of the WECS, the height limits set forth herein may be exceeded provided it is permitted by state and federal regulations. Height is measured from the average grade at the base of the tower to the highest point of WECS when a blade is in its vertical orientation.

(2) **Setbacks:** The following setbacks, measured from the center of the tower shall be observed.

(a) No wind turbine generator shall be located such that the distance between the center of the base of the tower and any outside boundary line of the area comprising the special land use is less than 1.5 times the height of the wind turbine generator.

(b) No wind turbine generator shall be located such that the distance between the nearest point of the blade (while in rotation) and the nearest boundary line of any individual land parcel comprising the pooled parcel is less than 150% of the height of the wind turbine generator, as measured from the ground at the center of the base of the tower to the highest reach of the blade; provided, however, that the Planning Commission may approve a lesser setback distance after considering the technical needs of the applicant, the feasibility of alternate locations, the nature and proximity of nearby buildings, structures, and public roads, for the potential for adverse impacts that noise, shadow flicker, and other features may have on adjacent land uses.

(c) No wind turbine generator shall be located such that the distance between the center of the base of the tower and the nearest point of any existing building designed or used for human occupancy or assembly (including but not limited to a dwelling, school, foster care facility, church and the like) is less than one mile.

(3) **Lot Size.** The size of the lot(s) to be used for a utility-scale WECS shall be sufficient to comply with all setback requirements in Section IV(C)(2) *Setbacks*.

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(4) **Minimum Ground Clearance.** The minimum vertical blade tip clearance shall be a minimum of fifty (50) feet of clearance over and above any structure and a minimum of 100 feet of clearance above the ground.

(5) **Local County Airport.** All WECS shall fully comply with the local municipal ordinances regarding the Colorado Plains Regional Airport requirements and all FAA regulations.

(6) **Lighting.** WECS shall be designed to minimize the amount of nighttime light pollution while adequately warning aircraft of hazards from the WECS. WECS lighting shall be illuminated to Federal Aviation Administration (FAA) minimal standards using only red rather than white lights, if possible. Lighting shall be shielded from ground view to FAA maximum standards. All WECS shall employ the best available lighting technology to warn aircraft while minimizing light pollution, including without limitation the best available Aircraft Detection Lighting Systems.

(7) **Noise Standards.** The noise level generated by a WECS shall not exceed 45 A-weighted decibels ("dBA") for more than six minutes out of any one-hour time period, or exceed 50 dBA for any time period, as measured at the property line of any property neighboring the property upon which the WECS is located. If the ambient sound pressure level exceeds 45 dB(A), the standards set forth in the preceding sentence shall be the ambient sound pressure level plus 5 dB(A).

D. Construction Codes, Towers, & Interconnection Standards. Utility-scale WECS including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. Utility-scale WECS including towers shall comply with Federal Aviation Administration requirements, and other applicable local and state regulations. An interconnected utility-scale WECS shall comply with Colorado Public Service Commission (PUC) and Federal Energy Regulatory Commission (FERC) standards. Off-grid systems are exempt from PUC and FERC requirements. Utility-scale WECS shall comply with the following construction requirements:

1. Tubular towers are required for WECS.
2. The base of the wind turbine must be constructed in such a manner that upon removal of said tower, the soil will be restored to its original condition unless agreed to by landowners. Upon decommissioning of the WECS structure, all of the WECS structure and supporting systems, above and below ground, shall be removed and the land returned to the original state unless written approval of the landowner and the Planning Commission are obtained at the time of removal.
3. "Up wind turbines" are required.

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4. Constant velocity turbines are preferred. Variable speed turbines must submit additional data concerning noise when their revolutions per minute exceed 25 rpms.
5. The electrical wires used to connect the turbine tower to its step-up transformer shall be installed at a depth of 48 inches or more below ground.
6. The certified registered engineer and authorized factory representative shall certify that the construction and installation of the conversion system meets or exceeds the manufacturer's construction and installation standards.

E. Safety. The utility-scale WECS shall meet the following safety requirements:

1. The utility-scale WECS shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present.
2. All energy collection system wiring shall comply with all applicable safety and stray voltage standards.
3. A copy of the un-redacted Safety Manual from the turbine manufacturer shall be submitted to the County and the turbine must comply with all requirements therein.
4. All towers or poles must be unclimbable.

F. Fluid Containment. Each utility-scale WECS shall include both an internal and external fluid containment barrier located either within the nacelle, or at the base of the nacelle in the event of a spill or leak.

G. Inspection. The County shall have the right upon issuing any WECS or wind energy facility special use permit to inspect the premises on which each WECS is located at any reasonable time. The County may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the operator of the WECS.

H. Signage: Each WECS and Testing Facility shall have one sign per turbine, or tower, located at the roadside and one sign attached to base of each WECS, easily visible throughout four seasons. Signs shall be two square feet in area and be placed at the road right of way. Signs shall be the same and shall uniquely identify each WECS. Additional signage on and around the tower is recommended. The sign shall contain at least the following:

1. Warning high voltage.
2. The sign shall have at a minimum six (6) inch letters with 3/4-inch stroke.
3. This sign shall include a 24-hour emergency phone number.

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4. Landowner's name, WECS owner's name, and operator's name.
5. Emergency telephone numbers and web address. (List more than one number.)
6. If WECS uses fencing, place signs on the perimeter fence at fence entrance door.
7. Unique identification such as address of WECS. If there is more than one WECS on an access drive, units shall have further identification such that first responders can positively identify the WECS.

I. Coating and Color: A WECS shall be painted a non-obtrusive (light environmental color such as gray or soft white) color that is non-reflective based on FAA regulations. The wind turbine base and blades shall be of a color consistent with all other turbines in the area and turbine components. No striping of color or advertisement shall be visible on the blades or tower. FAA standards apply. All exterior turbine components shall meet a gloss rating less than or equal to 20 gloss units at a viewing angle of 60 degrees throughout the special land use or shall be recoated at the owner's expense within 180 days of a determination of non-compliance.

J. Communication Interference: Each WECS shall be designed, constructed and operated so as not to cause radio and television or other communication interference. In the event that verified interference is experienced and confirmed by a licensed engineer, the Applicant must produce confirmation that said interference had been resolved within sixty (60) days of receipt of the complaint. Any such complaints shall follow the process stated in Section IV(U) *Complaint Resolution*.

K. Braking: Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80% of design limits of the braking system with or without SCADA control. Braking system shall be effective during complete GRID power failure where WECS are unable to communicate with SCADA control or receive power.

L. Applicant Compliance: The WECS and related equipment shall comply with any and all State, Federal, County and other government requirements, and obtain all necessary permits prior to construction of any WECS.

M. Liability Insurance: Liability Insurance: The current WECS owner and operator shall insure for liability for the WECS in an amount of \$2,000,000 per tower assembly or an amount sufficient to cover the cost, without interruption until removed and to protect the current WECS owner and operator. In the event a public service such as police, fire, or rescue is required due to the operation, maintenance, or failure of a wind turbine, any cost incurred as a result of said event shall be the sole responsibility of the applicant and/or owner of the utility-scale WECS.

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N. Decommissioning: To ensure proper removal of each WECS structure when it is abandoned or non-operational, application for a special land use permit shall include proof that the financial security will be in effect before construction operations commence. The security shall be in the form of a surety bond, letter of credit, or cash, in a form acceptable to the County. The amount of each WECS security guarantee, shall be the average of at least two independent demolition/removal quotes obtained by the Planning Commission and approved by the Board of County Commissioners. Quotes shall be based on individual WECS removal and shall not group multiple WECS simultaneous removals together. Quotes shall be ordered and obtained by the County from established demolitions companies. Quotes shall not include salvage values. If the quantity of quotes obtained is two (2), the formula should be (quote 1 + quote 2) divided by two (2). The security guarantee shall be equal to no less than 100% of the estimated cost of decommissioning the entire WECS. The security amount shall be updated every two (2) years at the rate of 1.5 times CPI (consumer price index) for each year. Such financial guarantee shall be deposited with the County Treasurer after the WECS has been approved but before construction operations begin on the WECS project. Failure to keep such financial security in full force and effect at all times while the structure exists shall constitute a material violation of a special use approval and these regulations, and shall subject the Applicant to all available remedies to the County, including enforcement action, fines, revocation of the special use approval and WECS removal. The Applicant shall be responsible for the payment of all attorney fees and other costs incurred by the County in the event that the structure is not voluntarily removed and the County has to enforce removal. The Applicant/Owner and Operator shall execute any and all documents (as provided or approved by the County), sufficient to provide the County with a perfected security interest in monies deposited with the County for the purpose of decommissioning any wind energy conversion system.

O. Transfer or Sale. In the event of a transfer or sale of the WECS, the County shall be notified. Change in ownership alone shall be considered a minor amendment to the special land use and may be approved administratively by the Board of County Commissioners without a public hearing.

(a) In the event of an ownership change the current owner shall present at a meeting of the Board of County Commissioners a report and information regarding the following:

1. The current condition of the WECS Tower
2. Description and introduction of the new owner
3. Any changes to ongoing maintenance of the WECS

(b) Any proposed changes to the operating procedure or approved site plan shall be amended and resubmitted for County review according to the procedures for all WECS as outlined herein. All towers shall be brought up to current code to the extent possible.

(c) Upon transfer or sale, the cash bond shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account

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for the new estimate. A performance bond or letter of credit, in an amount determined by the Planning Commission to be sufficient to cover the entire cost of removal, shall be submitted by the applicant prior to the issuance of the special land use permit. To assist the Planning Commission in determining the amount of the performance bond or letter of credit, the applicant may submit information regarding the estimated cost to remove a wind energy conversion system. The Planning Commission may request to have an independent third party review the costs of decommissioning at the cost of the WECS owner/ operator.

P. Safety Manual: The Applicant must provide an un-redacted copy of the manufacturer's safety manual for each model of turbine without distribution restraints to be kept at the County Hall and other locations deemed necessary by Planning Commission or local first responders. The Manual should include standard details for an industrial site such as materials, chemicals, fire, access, safe distances during WECS failure, processes in emergencies, etc. Provide safety training through the EMS for all Emergency personnel listed above.

Q. Operational, Maintenance, and Issue Resolution: Each WECS and Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the Applicant shall take expeditious action to correct the situation, including WECS removal. The Applicant shall keep a maintenance log on each WECS and must provide complete log to the County within thirty (30) days of request. To assure compliance with this requirement, an annual audit of maintenance records, conducted by a qualified third-party maintenance expert acceptable to the County, and at the expense of the owner/operator of the turbine, may be requested with a copy of this report provided as specified by the County.

(a) WECS must be maintained and kept in operational working order or shall be removed by the owner of the wind energy conversion system. Any wind energy conversion system, or part of a wind energy conversion system such as a wind turbine generator, that has not produced electrical energy for 12 consecutive months shall be deemed to be abandoned; provided, however, that the owner or operator of the wind turbine may apply to the Planning Commission, not less than 60 days prior to the expiration of said 12-month period, for one additional extension of up to six months upon establishing, to the satisfaction of the Planning Commission, that the lack of production was caused by reasons beyond the control of the owner or operator. Any further extension will be up to the discretion of the Planning Commission. In determining whether such abandonment has occurred, the Planning Commission or County Zoning Administrator may request, and the operator, system owner, or property owner shall provide written documentation accurately indicating the amount of electrical energy produced by the wind energy conversion system during said 12-month period. It shall be the obligation of the wind energy conversion system owner to remove the abandoned wind energy conversion system.

(b) An escrow account shall be set up when the applicant applies for a Special Use Permit for a WECS and WECS Testing Facilities to cover permitting costs. The monetary amount filed by the Applicant with the County shall be in an amount estimated by the Board of County Commissioners to cover all reasonable costs and expenses associated with

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the special use zoning review and approval process, which costs can include, but are not limited to, fees of the County Attorney, County Planner, and County Engineer, as well as any reports or studies which the County anticipates it may have done related to the zoning review process for the particular application. Such escrow amount shall include regularly established fees. At any point during the zoning review process, the County may require that the Applicant place additional monies into the County escrow should the existing escrow amount filed by the Applicant prove insufficient. If the escrow account needs replenishing and the Applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until and unless the Applicant makes the required escrow deposit. Any escrow amounts which are in excess of actual costs shall be returned to the Applicant within ninety (90) days of permitting process completion. An itemized billing of all expenses shall be provided to the Applicant. The County shall hire qualified professionals for each and any of the technical fields associated with the Special Use Permit, such as, but not limited to, electrical, acoustics, environment, economics, wildlife, health, and land-use at the expense of the WECS owner/ operator.

(c) The WECS owner or operator shall provide the Planning and Zoning Administrator with a copy of the monthly maintenance inspections for WECS located on absentee landowner parcels if needed.

(d) Applicant must provide County with current copy of the un-redacted manufacturer's user manuals including safety manuals with permit application.

(e) Mechanical Failure - If there is a mechanical failure resulting in, but not limited to, an abnormal sound emission, release of a pollutant, or a public safety hazard including blade throw, ice throw, fire or injury to any person or property, the Zoning Administrator shall be notified of the event the next day of business following the event. The applicant shall provide the County at the time of application an operational procedure for this event, a mitigation strategy, and appropriate emergency contact information. A written report describing the failure and the owner's response to the failure shall be submitted to the Zoning Administrator within 10 business days of the event. Sound emitted from a wind turbine generator that is the result of a mechanical failure or lack of maintenance may not be subject to the complaint resolution procedure outlined in Section IV(R) *Complaint Resolution*. The emergency contact information and a turbine reference number shall be placed in an appropriate location near the site of the turbine, such as the gate for the access road, so it can be viewed without trespassing on private property.

R. Complaint Resolution. The purpose of this section is to provide the public with a mechanism to file a complaint with the wind energy conversion system owner and the Zoning Administrator and receive a timely response from the wind energy conversion system owner regarding alleged wind energy conversion system regulation violations. The applicant shall submit procedures which it intends to implement for receiving, acting upon, and resolving complaints or allegations that the wind energy conversion system is not in compliance with these regulations.

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(a) Complaint resolution procedures must be presented at the time of application and must meet the approval of the Planning Commission prior to approval of a special land use. Those procedures, at a minimum, shall:

1. Enable all property owners within the project boundary and owners of record of all adjacent property within a two-mile radius of a wind turbine generator, to submit complaints to the Planning and Zoning Board regarding non-compliance with these regulations. The Planning and Zoning Board will then contact the system owner for remedial action.
2. Provide current contact information at which the operator can be contacted for purposes of submitting complaints or allegations of non-compliance.
3. Require that all such complaints or allegations be submitted in writing.
4. As a condition of the system owner acting on the complaint, require that a complainant allow the wind energy conversion system owner or designated staff, or other authorized personnel such as an engineer or acoustic professional, on the property of the complainant for further investigation and testing.
5. Set forth information that must be included in the complaint or allegation.
6. Require that a complaint is acknowledged in writing by the wind turbine owner to both the complainant and the Zoning Administrator within five (5) business days of receipt of said complaint.
7. Set forth the number of days, not to exceed thirty (30), in which the operator shall investigate and resolve any and all complaints or allegations, either by way of correction or formal denial of non-compliance.
8. Require the operator to advise the Zoning Administrator in writing of the resolution of any complaint or allegation of non-compliance within thirty (30) days of its receipt of the same.

(b) Any complaint not resolved within thirty (30) days shall result in a performance review by the Planning Commission as described in Section X. *Performance Review*. Resolution or mitigation of a complaint that involves construction, landscaping, testing or other significant alteration/operational condition that is dependent on seasonal or other conditions may exceed thirty (30) days if approved by the Planning Commission.

(c) Complaints not resolved within (30) days shall constitute violations of these Regulations and the Planning Commission may request the Board of County Commissioners to bring a legal action for violation of these Regulations.

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(d) It shall be a violation of these regulations to modify the approved complaint resolution procedures without the prior approval of the Board of County Commissioners.

S. Non-Compliance with Standards: The Board of County Commissioners reserves the right to require WECS Applicant to suspend operating any WECS unit that does not meet the requirements of these regulations until such WECS unit meets these requirements or is removed.

T. Signal Interference. Through the appropriate placement of wind turbine generators, the applicant shall design to eliminate any interference such as, but not limited to, internet (Wi-Fi or satellite), AM or FM radio, cell telephones (including cellular and landline), 911, satellite television, microwave, navigational, emergency systems, and digital television. Post-construction signal interference caused by the wind energy conversion system shall be mitigated by the wind energy conversion system owner at their expense.

(a) An application shall include a Licensed Microwave Search and Worst-Case Fresnel Zone (WCFZ) analysis.

(b) The application shall include an interference mitigation plan. The plan shall describe mitigation measures and procedures to eliminate interference from the wind energy conversion system. The plan shall address various forms of interference and corresponding mitigation measures employed before and after construction of the wind energy conversion system. The plan must include relevant maps and modeling showing all known television, internet, emergency services, radio broadcast, or other signal paths along with proposed wind turbine locations.

U. Performance Review. The Planning Commission may require a performance review of the special land use on a five year basis, with the ability to extend or shorten the interval as determined by the Planning Commission. The five year time period commences after the first turbine of the wind energy conversion system becomes operational. The Planning Commission shall provide the performance review and the County shall perform, where reasonably practicable, investigation regarding a complaint or other matter requiring a performance review. In its sole discretion, the County may require the assistance of an independent third party due to the specialized nature of the complaint, conflicting evidence, or other condition. The reasonable cost of an independent third-party consultant shall be at the expense of the WECS owner. Failure to maintain compliance with these regulations shall result in enforcement action which may include the termination of the special land use, or portions of the special land use. The County will retain jurisdiction to modify, suspend or revoke all WECS licenses, should any violations occur.

(a) To administer the provisions relating to the WECS, the County may hire consultants and experts as are reasonably necessary in the sole discretion of the County. The applicant shall pay the County in advance for the costs of such consultants and experts. The County may charge an annual fee to be determined by the Board of County Commissioners and assess additional fees in order to execute its responsibilities related to a project. Any fees charged must be reasonable in light of efforts required.

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- (b) The purpose of the performance review is to evaluate the status of:
1. Compliance with Special Land Use. Compliance with the conditions set forth by the special land use, such as specific mitigation measures or operation procedures.
 2. Avian or Bat Mortality. A significant avian or bat mortality event that exceeds projected impacts described in the Wildlife Study as required in these regulations.
 3. Unresolved and/or repeated complaints. A complaint taking longer than thirty (30) days to resolve may require a performance review unless otherwise specified in these regulations. If after the performance review and further investigation, the Planning Commission verifies that alleged violations are the result of the operation or condition of the wind energy conversion system, the owner/operator shall eliminate the non-compliance by mitigation or other measures which may include temporary operational changes. The Planning Commission shall establish the effective date of the mitigation measure based on the nature of the mitigation.
 4. As a condition of the Planning Commission conducting a performance review, the complainant shall be required to allow County staff, the wind energy conversion system owner or designated staff, or other authorized personnel such as an engineer or acoustic professional, on the property of the complainant for further investigation and testing.
 5. Actions taken by the Planning Commission to terminate or modify the Special Land Use, portions of the Special Land Use, or the conditions of the Special Land Use shall require a public hearing and notification to the wind energy conversion system owner pursuant to the conditions of the original permit.
 6. Estimated cost/ benefit analysis describing the impact of the project on the local and state economy with respect to the following:
 - (a) The amount of property taxes to be generated by the project.
 - (b) The amount of sales taxes to be generated by the project.
 - (c) The amount of other applicable taxes to be generated by the project.
 - (d) The construction dollars to be spent locally.
 - (e) The number of construction jobs and estimated construction payroll.
 - (f) The number of permanent jobs and estimated continuing payroll.

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- (g) Costs associated with the impact on roads or other County infrastructure in the project area.

V. **APPLICATION PROCESSING**

Applications for a large scale WECS or other facility governed by these regulations shall be processed as follows:

1. **Application to County.** All Use by Special Review applications shall be submitted to the County Planning Department, which shall review the application for completeness. The application shall not be scheduled for review by the Planning Commission or the Board of County Commissioners until it is complete.
2. **Fee.** Applicant shall pay the application fee as set by the Board of County Commissioners per structure.
3. **Notice.** Upon receipt of a complete application notice shall be provided as follows:

(a) **Required Information.** All notices shall contain, at a minimum, the following information:

- (i) The name of the applicant;
- (ii) A brief description of the application;
- (iii) A vicinity map showing the subject properties;
- (iv) The date, time and location of the hearing and name of the decision-making body conducting the hearing; and
- (v) Indication that more complete information about the application is available at the Planning Department and provide the telephone number, address, and an email contact for the Planning Department.
- (vi) Use by Special Review application.

(b) **Publication - General Circulation Newspaper.** At least ten (10) calendar days prior to a public hearing, a notice shall be published by the Planning Department at least one time in the legal notice section of a general circulation newspaper within the County. A publisher's affidavit shall be submitted to the Planning Department prior to the hearing date to verify the publication of the required notice.

(c) **Written Notice.** At least ten (10) calendar days prior to a public hearing, a written notice shall be sent by mail with proof of mailing by the applicant to all property owners within one thousand (1,000) feet of the external boundaries of the subject site, excluding adjacent rights-

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of-way. The proof of mailing receipts for each letter, a list of property owners notified, and a map illustrating the location of those properties within the required notice area shall be submitted to the Planning Department prior to the hearing date.

2. Public Hearings.

(a) General. No public hearing shall commence, nor testimony taken, until all notice procedures are met. At a hearing to consider an application the reviewing body shall review the data supplied by the applicant, review the findings and recommendations of the Planning staff, and take testimony from all interested persons in attendance. The applicant shall offer competent evidence in support of the application sufficient to enable the reviewing body to consider the matter and make findings on the subject. The applicant has the burden of presenting all necessary and relevant information and evidence in support of the application.

(b) Planning Commission. The Planning Commission shall hold a public hearing on the application after proper notice. After reviewing the Planning staff report, if any, and receiving testimony and evidence, the Planning Commission shall provide a recommendation to the Board of County Commissioners at the conclusion of the public hearing. Its recommendation shall set forth the findings of fact together with conditions of approval considered necessary to mitigate impacts and protect the public health, safety, and welfare.

(c) Board of County Commissioners. The Board of County Commissioners shall hold a public hearing on the application after proper notice. After reviewing the Planning staff report and the Planning Commission's recommendation and receiving testimony and evidence, the Board of County Commissioners shall render its decision at the conclusion of the public hearing. The decision shall set forth the findings of fact together with conditions of approval considered necessary to mitigate impacts and protect the public health, safety, and welfare.

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EXHIBIT B

1. **PURPOSE AND INTENT**

The purpose and intent of these Regulations is to establish standards and review procedures for applications for Solar Power Production Facilities (SPPF) in unincorporated Washington County, to protect the health, welfare, safety, and quality of life of the general public, to allow for development while protecting existing agricultural resources and rural character, and to ensure compatibility with land uses in the vicinity of these facilities.

2. **DEFINITIONS**

GLARE

The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

OPERATOR

The person responsible for the overall operation and management of a solar energy project.

OWNER

The person who owns all or a portion of a solar energy project.

PERIMETER

The property lines for a lot, tract, or parcel upon which a Solar Power Production Facility is located.

PHOTOVOLTAIC

Materials and devices that absorb sunlight and convert it directly into electricity.

SET BACKS

All equipment and accessory structures associated with the small solar energy system shall be setback twenty-five (25') feet from side and rear property lines and fifty (50") feet from the right of way of any public or private road. All equipment and accessory structures associated with an SPPF shall be setback two hundred (200') feet from all property lines and at least one thousand (1,000') feet from any residentially zoned properties. The Planning Commission or Board of County Commissioners may determine that a greater or lesser setback would adequately protect adjoining land uses.

1. Setbacks shall be kept free of all above-ground structures and parking lots.
2. Setbacks shall not be required along property lines adjacent to other parcels which are part of the solar energy system; however, should properties be

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removed from the system, setbacks must be installed along all property lines of those properties remaining within the project which are adjacent to a parcel which has been removed.

SMALL SOLAR ENERGY SYSTEM

An energy conversion system, operating as a principal land use, consisting of photovoltaic panels, support structures, and associated control, conversion, and transmission hardware occupying less than one-half acre of total land area or generating less than ½ a megawatt (500,000 kilowatts).

SOLAR ARRAY

A grouping of multiple solar modules with purpose of collecting or converting solar energy.

SOLAR CELL

Smallest basic solar electric device which generates electricity when exposed to light.

SOLAR EQUIPMENT

Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

SOLAR MODULE

A grouping of solar cells with the purpose of collecting or converting solar energy.

SOLAR PANEL

The part or portion of a Solar Power Production System containing one or more receptive cells or modules, the purpose of which is to convert solar energy to electricity.

SOLAR POWER PRODUCTION FACILITIES or SPPF

A utility on an area of land over one-half acre designated for the purpose of producing photovoltaic electricity with a nameplate capacity of over ½ megawatt (500,000 kilowatts) and includes, but is not limited to, an assembly of solar panels and solar equipment that converts sunlight into electricity and then stores and/or transfers that electricity. Solar Power Production Facilities may include mechanical buildings, transmission lines, and other uses that are typical to a SPPF, however offices and other commercial uses are prohibited.

TRANSMISSION LINE

A power line carrying or distributing electricity generated by a SPPF to a point of interconnection on the public electrical grid system. Transmission Line, as defined herein, does not include transmission lines or other electric facilities built, owned, and operated by public

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utilities, as defined per C.R.S. 40-1-103.

3. APPLICABILITY

- A. The substantive and procedural requirements of these Regulations shall apply to all SPPF that are proposed, operated, modified, or constructed in unincorporated Washington County.
- B. No modification or alteration, excluding regular maintenance and repair, to an existing SPPF shall be allowed without full compliance with these Regulations.

4. PERMITS REQUIRED AND EXCEPTIONS

- A. Permits Required. Except as set forth in Subsection B, below, no SPPF shall be constructed, reconstructed, or modified in unincorporated Washington County except pursuant to a Use by Special Review and Building Permit issued in compliance with these Regulations.
- B. Permit Exceptions. The placement or construction of a Small Solar Energy System shall be allowed as a use by right in the following locations:
 - 1. Lands that have been converted to roads, parking lots, runways, or similar uses, provided the conversion was not done for the specific purpose of rendering such lands eligible for placement of an SPPF.
 - 2. Rooftops of buildings.
 - 3. Property subject to substantial development restrictions to create a safe area for airport traffic, commonly referred to as an airport safety zone.
 - 4. Highway interchanges.

5. APPLICATIONS FOR SPPFS

An application for a Use by Special Review Permit for an SPPF shall include the following:

- 1. Name, address, and telephone number of the applicant and landowner and affidavit of agreement between landowner and facility owner, if any.

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2. Address or other property identification of each proposed facility including existing use and acreage of parcel.
3. A description of the facility and project including the area covered by the solar panels, and the make, model, a picture, and manufacturing specifications of the SPPF.
4. Vertical drawing of all SPPF equipment, showing total height, dimensions, colors, and locations of the SPPF.
5. A survey prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly show the following:
 - a. Property lines, physical dimensions of the site, and the location, dimensions and types of existing structures and uses on the site.
 - b. Public roads and access roads.
 - c. Adjoining properties within 1,000 feet of the site including zoning designations or primary use of property, residences, schools, churches, hospitals, libraries, commercial, industrial, and agricultural structures within 2,000 feet of the site.
 - d. The proposed location, elevation, and total height of each structure.
 - e. Above- and below-ground utility lines on the project site.
 - f. Set back lines.
 - g. All other proposed facilities on the site including transformers, electrical lines, substations, storage or maintenance units, ancillary equipment or structures, transmission lines, and fencing.
6. Proposed lighting.
7. A detailed fire control and prevention and emergency response plan to coordinate with local emergency response providers.
8. A preliminary transportation plan describing ingress and egress to the proposed project site to deliver equipment and provide access during and after construction. Such plan shall describe any anticipated improvements to existing roads, bridges, or other infrastructure, as well as measures which will be taken to restore damaged or disturbed access routes following construction.

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9. A survey map showing federal, state, county or local parks, recognized historic or heritage sites, identified wetlands, and important wildlife habitat and migration routes within three miles of the project site.
10. A list of property owners, with their mailing addresses, within 1 mile of the outer boundaries of the proposed site.
11. Reports on the following:
 - a. Visual impact. This shall include renderings of the site fully developed and demonstrating any visual impacts from surrounding properties, rights-of-way, and public property. Color photographs of the proposed site accurately depicting the existing conditions shall be included. The study shall also indicate the color treatment of the facility's components and any visual screening incorporated into the project that is intended to lessen visual prominence.
 - b. Wildlife impact. A study as required by Colorado Parks and Wildlife.
 - c. Geotechnical impact. This shall at a minimum include an analysis of soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing, foundation design criteria for all proposed structures, slope stability analysis, grading criteria for ground preparation, cuts and fills, and soil compaction.
 - d. Engineer's report. No later than upon application for a building permit, an engineer's report shall be prepared by a professional engineer licensed in Colorado showing that the design and foundation are sufficient to withstand wind and snow loading.
 - e. Land use and water impacts. This shall detail potentially impacted wetlands, surface water and groundwater resources, and the geology and land use of the site.
 - f. An assessment of the impact on the immediate vicinity of the proposed solar energy system as well as the greater Washington County community shall be submitted by a professional.

- g. All studies required by other applicable laws and regulations.
12. No later than upon application for a building permit, an unredacted copy of the equipment manuals.

6. APPLICATION REVIEW PROCESS

A. Application. Applicants for a Use by Special Review Permit and Building Permit for an SPPF must submit one (1) copy of the application to the Washington County Planning and Zoning Official, who shall within 30 days determine if all required information is included in the application. If the application is incomplete, the applicant will be provided with a written statement detailing the missing information. If the application is complete, the Planning and Zoning official will forward the application to the Planning and Zoning Commission for review.

B. Hearings.

1. The Planning Commission shall conduct a public hearing on the application with notice published in a newspaper of general circulation in the County and applicant will send a certified letter to adjoining property owners within 2,000 feet of the outer boundary of the project via first class mail no later than ten (10) days before the hearing. Upon conclusion of the Planning Commission hearing, the Planning Commission shall forward a recommendation to the Board of County Commissioners.
2. Upon receipt of the recommendation of the Planning Commission, the Board of County Commissioners may conduct a public hearing on the application with notice published in a newspaper of general circulation in the County.

C. Approval. The Board of County Commissioners may grant the special use permit, grant the special use permit with conditions, or deny the special use permit in writing. To grant the special use permit, it must be found that the SPPF will not unreasonably interfere with the County's orderly land use and development plans, the project is not detrimental to the public health, safety, and general welfare, and the project complies with all of the relevant provisions set forth in these Regulations or will comply with these requirements based on conditions that may be attached to the approval.

D. Consultants. The County may hire any consultants and/or experts reasonably necessary to assist the County in reviewing and evaluating permit applications. All fees for such consultants shall be borne by the applicant, and the County may require

the applicant to pay a deposit for those estimated costs prior to the County commencing any review of the application.

7. **CRITERIA FOR APPROVAL OF SPPF**

A. Safety Standards. SPPFs shall comply with the following development standards:

1. SPPFs shall be screened or shall be enclosed by fencing a minimum of six (6) feet in height. Screening and/or fencing shall be consistent with the surrounding character and utilize landscaping and/or native vegetation strategies to screen the facility from routine view of public right-of-ways or adjacent residential property. When fencing is used, the type and style of fencing shall also reflect any safety concerns specific to the general public and adjacent wildlife.
2. Glare shall not negatively impact surrounding properties, wildlife, or livestock.
3. Glare resistant panels shall be required for all SPPFs.
4. Any lighting shall be shielded and downward-facing to contain light within the perimeter of the facility to the maximum extent possible.
5. All solar equipment associated with an SPPF shall meet the minimum zoning setbacks per Set Back Definition as listed under item 2. DEFINITIONS.
6. SPPF solar equipment shall not exceed a maximum of 20 feet in height as measured from grade at the base of the equipment to its highest point during operation.
7. The construction and operation of all SPPFs shall be consistent with applicable local, state, and federal regulations, including but not limited to, safety, construction, electrical, communication, and fire requirements. All solar equipment and other structures shall comply with local and state building codes.
8. Construction or maintenance activities shall not result in the unabated introduction or spread of noxious weeds and other undesirable weed species.
9. The manufacturers' or installers' identification and appropriate warning

signage shall be posted at the site in a clear and visible manner at the entrance and along any fencing.

B. Siting and Installation.

1. **Road access to project site.** Entrances to access roads must be gated and kept locked. The applicant must only use designated traffic routes as approved by the County. Routes shall be chosen to minimize traffic impacts taking into consideration SPPF related traffic during school bus times, wear and tear on local roads, and impacts on local businesses and agricultural activity. Existing roads shall be used to the extent possible or if new roads are needed they shall minimize the amount of land used and the adverse environmental impacts. The applicant is responsible for remediation of any damaged roads due to siting and installation of the SPPF.
2. **Power lines.** Power lines between SPPF equipment and any other buildings or structures, including without limitation any on-site substations, shall be completely underground. Power lines for connection to the public utility company and transmission poles, towers, and lines may be above ground provided applicant can show that undergrounding these facilities creates an undue burden upon the applicant, which may include excessive costs, safety hazards, or engineering impracticality.
3. **Connection of transmission lines from the SPPF to local distribution lines.**
 - a. No construction of any SPPF shall be started until evidence is given of a signed interconnection agreement or letter of intent with an interconnecting utility company and ownership of the rights necessary for the location of the transmissions lines (via easement, fee ownership, or other similar legal rights).
 - b. The SPPF shall meet the requirements for interconnection and operation as set forth in the electric utility company's then current service regulations applicable to SPPFs.
 - c. Transmission lines and points of connection to local distribution lines shall be combined to the extent feasible. The SPPF shall be connected to existing substations if possible, or if new substations are needed, the number shall be minimized. The length of all transmission lines shall be minimized to greatest extent reasonably feasible, provided that, in general, longer underground lines shall

be preferred to shorter above-ground lines. Above-ground transmission lines shall be located adjacent and parallel to existing above-ground transmission lines to the greatest extent feasible. Alternate locations for above-ground transmission lines may be approved upon a showing that the location protects viewscales to a greater extent than locating them adjacent and parallel to existing transmission lines.

C. Environmental and Visual Effects.

1. **Advertising.** No advertising shall be allowed on any part of the SPPF including the fencing and support structures.
2. **Colors and surfaces of SPPF.** Colors and surface treatment of all SPPF shall minimize visual disruption by using white, beige, off-white, gray or another non-reflective, unobtrusive color. SPPF components shall make use of materials, textures, screening, and landscaping that blend the facility into the natural setting and existing environment to the extent practicable.
3. **Landscaping.** The landscaping of the SPPF shall be appropriate to screen accessory structures from roads and adjacent residences. It shall be designed to minimize the impacts of land clearing and loss of open space.
4. **Ecosystems and animals.** SPPF may not cause any violations of the Endangered Species Act.
5. **Visual setbacks.** To the extent practical without substantially diminishing their solar source, the SPPF shall be set back from the tops of visually prominent ridgelines and designed and located to minimize adverse visual impact. The SPPF shall not be installed in any location that would substantially detract from or block the view of all or a portion of a recognized scenic vista as viewed from any public viewing areas such as public parks, roads, trails, or open space.

D. Operation.

1. **Maintenance.** The owner of the SPPF shall submit an annual report of operations and maintenance to the County.
 - a. All SPPF's must be maintained in operational condition meeting all of the requirements of these regulations and other permit conditions at all times, subject to reasonable maintenance and

repair outages. If the SPPF becomes inoperative, damaged, unsafe, or violates a permit condition or standard, the owner/operator shall remedy the situation within 90 days after written notice from the County. The County may extend the period based on a showing that the violation cannot be reasonably cured in 90 days.

b. If the SPPF is not repaired or brought into compliance within the timeframe stated above, the County may, after a public hearing, order remedial action or revoke the special use permit, and order removal of the SPPF. The County may also bring any other enforcement action permitted by law.

2. **Inspections.** The County has the right to enter the premises of the SPPF at any reasonable time to inspect the SPPF for compliance with these regulations and the terms of the County Special Use Permit. The County may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the operator of the SPPF.

8. **ABATEMENT, DECOMMISSIONING, DISCONTINUATION OR ABANDONMENT, AND SITE RESTORATION PLAN**

A. **Abatement and Decommissioning.** If the SPPF is not operational or operated for a continuous period of 12 months, it shall be considered abandoned, and the County may direct its owner/operator to decommission it pursuant to this section. If the owner/operator fails to decommission the SPPF as required, the County may contract for its removal and charge the applicant for all costs incurred.

B. **Decommissioning and Site Restoration Plan.** A decommissioning and site restoration plan shall be provided with an application for an SPPF, which shall include:

1. The anticipated life of the SPPF;
2. Triggering events for decommissioning and removal; and
3. The manner in which the SPPF will be decommissioned and the site restored including removal of all structures, solar arrays, cabling, electrical components, debris, and foundations, restoration of the soil and vegetation, and restoration of roads and driveways, less any fencing or residual minor improvements requested by the landowner.

C. Discontinuation or Abandonment of Project

1. Thirty (30) days prior to such time that a SPPF is scheduled to be abandoned or discontinued, the owner or operator shall notify the Planning and Zoning Official by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Any solar project that has been inoperable or unutilized for a period of 12 consecutive months shall be deemed abandoned and at the County's discretion subject to the requirements of this section.
2. Within 365 days of the date of abandonment or discontinuation, the owner or operator shall complete the physical removal of the solar energy project and site restoration. This period may be extended at the request of the owner or operator, upon approval of the Planning Commission.
3. Decommissioning of discontinued or abandoned SPPF shall include the following:
 - a. Physical removal of all solar energy equipment and above-ground appurtenant structures from the subject property including, but not limited to buildings, machinery, equipment, cabling and connection to transmission lines, equipment shelters, security barriers, electrical components, roads, unless roads need to remain to access buildings retrofitted for another purpose, or the landowner submits a request to the Planning Commission that such roads remain.
 - b. Below-grade structures, such as foundations, underground collection cabling, mounting beams, footers, and all other equipment installed with the system shall be removed to a depth of 48 inches; however, these structures may be allowed to remain if a written request is submitted by the landowner and a waiver is granted by the Planning Commission.
 - c. Compacted soils shall be de-compacted as agreed to by the landowner.
 - d. Restoration of the topography of the project site to its pre-existing condition, except that any landscaping or grading may remain in the after-condition if a written request is submitted and a waiver is granted by the Planning

Commission.

- e. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local, state, and federal solid waste disposal regulations.

9. BONDING

Prior to the issuance of a Building Permit for a solar energy system, the applicant shall submit to the Zoning Administrator an itemized cost estimate of the work to be done to completely remove the entire solar energy system plus fifty percent (50%) of said estimated costs as a reasonable allowance for administrative costs, inflation, and potential damage to existing roads or utilities in a bond, irrevocable letter of credit or other surety. This shall remain in full force and effect until the Planning and Zoning Official or their designee has inspected the site and verified that the solar energy system has been removed, and County roadways are intact and require no repairs. When verification has been received, the Planning and Zoning Official shall promptly release the bond, irrevocable Letter of Credit or other surety.

10. LIABILITY INSURANCE

Prior to issuance of a building permit, the applicant shall provide the County with proof of a general liability insurance policy at a level to be determined by the County to cover damage or injury that might result from failure of any part of the SPPF. The current SPPF owner and operator shall insure the liability for the SPPF in an amount of \$2,000,000, or 50% of total value whichever is the larger amount, without interruption until the SPPF is removed to protect the current SPPF owner and operator. In the event a public service such as police, fire, or rescue is required due to the operation, maintenance, or failure of the solar energy system, any cost incurred as a result of said event shall be the sole responsibility of the applicant and/or owner of the utility-scale SPPF.

11. TRANSFER OR SALE

In the event of a transfer or sale of the SPPF, the County shall be notified and the special land use permit, may be amended administratively by the County board.

1. Change in ownership alone shall be considered a minor amendment to the special land use and may be approved administratively without a public hearing.
2. Any proposed material changes to the operating procedure or approved site plan shall be amended and resubmitted for County review according to the procedures for all SPPF's as outlined herein, including a public hearing.

3. Upon transfer or sale, the cash bond shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new ownership. A performance bond or letter of credit, in an amount determined by the Planning Commission to be sufficient to cover the entire cost of removal, shall be submitted by the applicant prior to the issuance of the special land use. To assist the Planning Commission in determining the amount of the performance bond or letter of credit, the applicant may submit information regarding the estimated cost to remove an SPPF. The Planning Commission may request to have an independent third party review the costs of decommissioning to be paid for by applicant.

12. COMPLAINT RESOLUTION

- A. The purpose of this section is to provide the public with a mechanism to file a complaint with the Solar Energy System owner and the Zoning Administrator and receive a timely response from the SPPF owner regarding alleged solar energy system regulation violations. The applicant shall submit procedures which it intends to implement for receiving, acting upon, and resolving complaints or allegations that the SPPF system is not in compliance with these regulations.

Complaint resolution procedures must be presented at the time of application and must meet the approval of the Planning Commission prior to approval of a special land use. Those procedures, at a minimum, shall:

1. Require the system owner to document complaints regarding non-compliance with these regulations from all property owners within the project boundary and up to a two thousand feet (2,000') of the solar equipment.
2. Provide current contact information at which the operator can be contacted for purposes of submitting complaints or allegations of non-compliance.
3. Require that all such complaints or allegations be submitted in writing, or digitally signed email.
4. As a condition of the system owner acting on the complaint, require that a complainant allow the solar system owner or designated staff, or other authorized personnel such as an engineer, on the property of the complainant for further investigation and testing.
5. Set forth information that must be included in the complaint or allegation.
6. Require that a complaint is acknowledged in writing by the SPPF owner to

WASHINGTON COUNTY, CO
SOLAR POWER PRODUCTION ZONING REGULATIONS

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both the complainant and the Zoning Administrator within five (5) business days of receipt of said complaint.

- 7 Set forth the number of days, not to exceed thirty (30), or five (5) days if deemed hazardous, in which the operator shall investigate, determine the corrective action necessary, if any, and establish a schedule within which to resolve any and all complaints or allegations, either by way of correction or formal denial of non-compliance.
- 8 Require the operator to advise the Zoning Administrator in writing of the proposed resolution plan of any complaint or allegation of non-compliance within thirty (30) days of its receipt of the same.
- 9 Control of nuisances and hazards created by animal pests affecting neighboring landowners due to SPPF.

B. Any complaint not resolved within schedule established in the resolution plan shall result in a performance review by the Planning Commission at their next scheduled meeting. Resolution or mitigation of a complaint that involves construction, landscaping, testing or other significant alteration/operational condition that is dependent on seasonal or other conditions may exceed thirty (30) days if approved by the Planning Commission. Complaints not resolved as set forth in the resolution plan shall constitute violations of these Regulations and the Planning Commission may request the County to bring a legal action for violation of these Regulations.

13. **NON-COMPLIANCE STANDARDS** The County reserves the right to require an SPPF Applicant to cease operating any SPPF unit that does not meet the requirements of these regulations until such SPPF unit meets these requirements or is removed. Prior to requiring an SPPF to cease operations, the County will provide the SPPF prior written notice of its violation of the Use by Special Review Permit and/or the associated building permit and its intent to issue such an order. The notice shall provide the SPPF with a reasonable period of time to cure the violation not to exceed thirty (30) days unless reasonable grounds exist, as determined by the County, for additional time to cure the violation.

EXHIBIT C
APPLICATION FOR USE BY SPECIAL REVIEW
WASHINGTON COUNTY
150 ASH AVE AKRON, COLORADO 80720
(970) 345-2701 ext 2 Fax (970) 345-2702
Email planning@co.washington.co.us
<http://co.washington.co.us>

Permit Number SP _____

WASHINGTON COUNTY

STATE OF COLORADO

Date of Application _____

Name of applicant _____

Address, _____

City, St, Zip _____

Telephone Number _____ Fax _____

Email _____

Legal description as defined by the quarter/quarter section (Example: property located in SW1/4 of SW1/4 Section 2, Township 5 North Range 54 West)

Township _____ Range _____ Section _____ 1/4Section _____

Approximate location using existing County roads _____

Owner of Property _____

Address _____

Telephone Number _____

Current Zoning _____

Type of interest Applicant has in property _____

Evidence of Availability of utilities to service proposed uses _____

Additional application requirements for CMRS facilities (attach)

Additional application requirements for Confined Animal Feedlot Operations (attach)

Additional application requirements for other Commercial/ Mixed Uses (attach)

I hereby certify that to the best of my knowledge the above information is true and correct.

Signature of Applicant _____ Date _____

Signature of Property Owner _____ Date _____

(or if facility is to be located on an existing approved CMRS facility, signature of the current facility owner/operator).

For Building permit: Building permit form and fees are required. Form can be obtained from County Commissioner's office or from County website at <http://www.co.washington.co.us>.

Administrative Review/ Application Fee \$500.00

***Sign Posting Fee \$150.00**

=Total Due _____

Building Permit – see Building Permit form

(\$100.00 for permit plus use tax on building)

*Publication charges will be added if the posting sites need to be published in the local newspapers instead of actual sign posting on the property.

COUNTY USE ONLY

Planning Commission Recommendation:

- Approved as submitted ()
- Approved with conditions ()
- Not Approved ()

Remarks: _____

Chairman _____ Date _____

Board of County Commissioners Recommendation:

- Approved as submitted ()
- Approved with conditions ()
- Not Approved ()

Remarks: _____

Chairman _____ Date _____

**USE BY SPECIAL REVIEW REGULATIONS
RELATING TO
CERTAIN COMMERCIAL, MIXED USE,
INDUSTRIAL, COMMERCIAL MOBILE RADIO (CMRS)
AND SMALL SCALE ELECTRICAL GENERATION WIND TOWERS
AND THEIR APPROVAL WITHIN
WASHINGTON COUNTY**

POLICY

To provide for uses within the unincorporated areas of Washington County which require special review by the Board of County Commissioners in order to determine their compatibility with surrounding current uses. Such uses commonly have the potential for various adverse impacts such as traffic congestion, noise, visual and aesthetic impacts which could undermine the integrity of the area in which it would be situated and therefore could jeopardize the health, safety and welfare of the existing citizens of Washington County.

PROCEDURES

FOR COMMUNITY BUSINESS

A. Intent:

Washington County encourages the location and development of businesses to serve the needs of its citizens and increase the economic viability of the County. It is the purpose of utilizing the Use By Special Review procedures for these activities to provide regulations for the establishment of business enterprises within the County to serve the residents. These activities will utilize the site plan and public hearing process for County approval.

B. Minimum Lot Size: As set forth in the site plan

C. Maximum Lot Size: As set forth in the site plan

D. Principal Permitted Uses:

1. Agricultural business store.
2. Auto sales and repair
3. Auto service station
4. Billiard parlor and/or pool hall.
5. Bowling alley, tennis club, skating rink, health club, beauty salon/barber shop, etc.
6. Convenience store with or without gas pumps.
7. Department store.
8. Dry goods / hardware store.

9. Furniture store.
10. Grocery Store
11. Nightclub, tavern, liquor store.
12. Special trade contractors, including but not limited to construction, plumbing, heating, and electrical.
13. Restaurant (including drive-thru "fast foods").
14. Hotel/motel.
15. Dog kennel.
16. Adult Entertainment
17. Special Cultural events or facilities.
18. Shooting Ranges
19. Other commercial or accessory uses.

FOR MIXED USE DEVELOPMENT

A. Intent:

It is the purpose of utilizing the Use By Special Review procedures for these developments are to allow for all other uses not delineated above or for a combination of commercial activities and multi-family dwellings such as apartments, condominiums, town homes, combinations of uses such as dwellings, recreational and commercial projects, adult entertainment, cultural facilities, etc. This district will utilize the site plan and public hearing process for County approval.

B. Minimum Lot Size: As set forth in the site plan

C. Maximum Lot Size: As set forth in the site plan

D. Principal Permitted Uses:

1. Multi-family dwelling units such as condominiums, town homes, etc.
2. Combinations of commercial activities.
3. Combinations of commercial activities and single family and / or multi-family dwelling units.
4. Recreational and commercial projects.

FOR INDUSTRIAL USES

A. Intent:

It is the purpose of utilizing the Use by Special Review procedures for these uses to allow for industrial, manufacturing, and / or those uses which may create potential adverse impacts to adjacent properties and / or neighbors. While said uses shall be permitted in order to foster

economic development within Washington County, the approval of such uses will utilize the site plan and public hearing process.

B. Minimum Lot Size: As set forth in the site plan

C. Maximum Lot Size: As set forth in the site plan

D. Principal Permitted Uses:

1. Commercial trucking and heavy equipment operations, with storage yards, extended long term parking and /or maintenance.
2. Asphalt or concrete batch plants.
3. Golf courses and/or recreational facilities.
4. Packing plants, slaughter houses, rendering plants.
5. Commercial synthetic fuel production.
6. Junk, scrap metal, and/or auto salvage yards.
7. Water and sewer treatment facilities.
8. Commercial grain elevators.
9. Solid waste, manure and compost facilities.
10. Other industrial uses.

**FOR COMMERCIAL MOBILE RADIO (CMRS) FACILITIES
SMALL SCALE WIND ELECTRICAL GENERATION TOWERS**

A. Intent:

To provide for the installation of Commercial Mobile Radio Service (CMRS) facilities, and ensure that such facilities are located and designed in a manner that is consistent with the health, safety, welfare, aesthetic values, and agricultural interest of the County.

B. General Provisions for CMRS towers:

a. The County encourages co-location of CMRS facilities when co-location minimizes their number and aesthetic impact.

b. When requested, the applicant must provide written documentation which demonstrates that co-location was refused or provide evidence that co-location is not possible before attempting to locate an additional free standing CMRS facility on a given parcel of land. The County may require a third party technical study at the expense of either or both parties to determine the feasibility of co-location. The study will be conducted at a reasonable cost and with minimum necessary effort-to make determination regarding co-location

c. No CMRS facility owner or operator shall unfairly exclude a wireless provider competitor from using the same facility or location. Upon request by the County, the owner or operator shall provide evidence why co-location is not possible.

d. CMRS facilities must comply with any and all applicable federal, state, and county rules, regulations, and/or requirements as set for herein.

e. Abandoned CMRS facilities which are not in use for CMRS purposes for a period of six (6) consecutive months shall be removed by the CMRS facility owner. This removal shall occur within ninety (90) days of the said six month period. Upon removal, the site shall be re-vegetated or restored to substantially the condition it was in prior to the existence of the CMRS facility within the time limit specified above. The County is hereby authorized to remove or cause the removal of the abandoned CMRS facility without any liability for trespass, and all costs incurred by the County, including and administrative cost equal to twenty-five percent (25%) of all direct costs, shall be charged as a lien against such real property and the owners thereof.

f. Land forms, vegetation, structures, and architectural treatments shall be used when appropriate to aid in screening the facility to blend in into the surrounding built and natural environment to the degree it is technically feasible (consideration should be given to placing associated equipment underground or within structures).

g. Utilize design, materials, and colors of antennae, support structure and equipment storage shelters that are compatible with the surrounding environment and/or structures in terms of general appearance, scale, bulk and height.

h. All equipment, storage shelters, and/or cabinet components of the CMRS facility shall be grouped as closely as technically possible.

i. No structure shall be located within 250 feet plus the tower height from any residence.

j. The equipment storage shelters and/or cabinets for a freestanding CMRS facility shall meet the following standards:

(i.) The total footprint of each service provider's equipment storage shelter and/ or cabinets shall not exceed 360 square feet; and

(ii) No equipment storage shelter and/or cabinet shall exceed thirteen (13) feet in height.

C. General Provisions for Small Scale Electrical Generation Wind Towers

a. Small scale wind tower applications may be for multiple units upon any one parcel.

b. Small scale wind tower facilities must comply with any and all applicable federal, state, and county rules, regulations, and/or requirements as set within a development agreement.

c. Utilize design, materials, and colors of support structure and equipment storage shelters that are compatible with the surrounding environment and/or structures in terms of general appearance, scale, bulk and height.

d. All equipment, storage shelters, and/or cabinet components of the facility for multiple units shall be grouped as closely as technically possible.

- e. No small scale wind tower structure shall be located within 250 feet plus the tower height from any residence.

APPLICATION REQUIREMENTS FOR COMMUNITY BUSINESS, MIXED USE, INDUSTRIAL, COMMERCIAL MOBILE RADIO SERVICE (CMRS) AND SMALL SCALE ELECTRICAL GENERATION WIND TOWERS USES BY SPECIAL REVIEW

1. All proposals for a Use by Special Review approval under these regulations shall be submitted to the Commissioners Office prior to consideration of the request by either the Planning Commission or the Board of County Commissioners. The initial proposal shall be in written form describing the proposed use and signed by the applicant. Upon receipt of the written proposal, the planning and zoning official shall advise the applicant that the proposal will be scheduled for a brief review at the next regularly scheduled Board meeting date, at which time the Board will assess the matter and set forth the requirements and parameters for the formal application process. The applicant will be advised of this initial hearing date and time and may be present before the Board when the matter is discussed.

2. Once the Board has determined the application requirements, a complete application for a Use by Special Review hearing must be submitted to the County. This document shall contain one or more of the following:

a. Letter of intent requesting the Use by Special Review hearing and fully describing the intended use of the property. The letter must be signed by the property owner and applicant (if different from property owner), and a certification of ownership must be included in the submittal.

b. A fee established by the Board of County Commissioners shall be paid at the time of the application.

c. A site plan (two copies) drawn on 18" x 24" sheets, to include the following information:

- (1) Name of proposed use.
- (2) The land area and legal description.
- (3) Vicinity map one (1) mile radius.
- (4) The proposed land use for each use requested in square feet.
- (5) Existing and proposed public and private rights-of-way, easements and drainage ways.
- (6) The residential density of all adjacent properties.
- (7) The location(s) and dimensions of all existing and proposed structure(s), the use(s) to be located therein, gross floor area, locations of entrances and loading points, if applicable.
- (8) Location of outdoor waste disposal facilities, if applicable.
- (9) Location and height of fences, walls, screens, planting and any other landscaping features.
- (10) Types of surfacing, such as asphalt paving, concrete, gravel or grass, of the interior of the site.
- (11) Provisions for access by emergency vehicles.

(12) Signs and lighting devices (fully detailed).

(13) Utility lines and appurtenances.

d. a proposed drainage report, if required by the Board, for commercial uses.

e. cost estimates of any public improvements for roads or other infrastructure, as may be required by the Board.

f. an appropriate number of 11 "x 17" reductions of the required site plan.

g. sufficient proof of water and sanitation facilities to serve the proposed use.

h. additional information may be requested by the Board as appropriate to review the request.

3. Once the complete application submittal is received by the planning and zoning official, they will:

a. "Log in" the submittal and notify the applicant that the case filing is complete.

b. Refer the submittal to the Planning Commission, and other appropriate agencies, such as the applicable fire department and school district.

c. Schedule the proposal for a future public hearing before the Washington County Planning Commission.

d. Send posting requirement instructions to the applicant.

4. The property on which the use is proposed shall be posted by the county with a sign not less than three feet high by four feet long (3' x 4') on posts not less than two feet (2') above natural grade, and shall contain the following information:

NOTICE OF USE BY SPECIAL REVIEW APPLICATION

(must be 4 inch letters in red)

Notice is hereby given that the property upon which this sign is posted shall be considered for a Use by Special Review within unincorporated Washington County, said use being a (use). Additional information may be obtained from the Washington County Courthouse, Commissioners' Office. Such hearing is to be held before the Washington County Planning Commission on (day) (date) of (month), 20(year) at (time) p.m. in the County Courthouse, 150 Ash, Akron Colorado, 80720.

DATE OF POSTING

NAME OF APPLICANT

Said sign shall be erected on the property in a prominent place visible from the nearest dedicated public roadway, for a period of not less than fourteen (14) days prior to the hearing. The sign shall be posted by the Washington County Road and Bridge department

5. A "Certification of Posting" form shall be completed by the Washington County Road and Bridge department and submitted to the Planning Commission. Such certification attests to the continual posting of the public hearing sign in the proper location for a required fourteen (14) day period. The Commission may require the Road and Bridge department to testify at the hearing as to compliance with these procedures.

6. After the public hearing and review by the Planning Commission, their recommendations will be forwarded to the Board of County Commissioners, and the Board will hold second hearing on the proposal.

7. At the conclusion of the hearing before the Board of County Commissioners, they will take one of the following actions regarding the case. They may:

- a. Approve as submitted and / or recommended by the Planning Commission.
- b. Approve with additional or different conditions.
- c. Table (for further information, etc.)
- d. Take the request under advisement.
- e. Deny.

If and when a case is approved by the Board of County Commissioners, the applicant shall submit a final mylar to the County which shall be executed and recorded in the permanent land use records within the Clerk and Recorders Office

8. The proper appeal of a decision of the Board of County Commissioners is to the District Court for Washington County.

SITE PLAN AMENDMENTS

POLICY:

It is understood that applicant(s) may from time to time desire to modify the approved Use By Special Review obtained from Washington County, for changes in principle permitted uses, or modifications to the requirements imposed by the County under paragraph 2 (c) of the Application Requirements, or for financial reasons. The Board therefore determines to provide a mechanism to accomplish changes sought by applicants to approved site plans. These amendments are considered either administrative where minimal changes are sought or a formal plan amendment, which requires a review and recommendation by the Washington County Planning Commission and reposting of the property.

PROCEDURES:

ADMINISTRATIVE SITE PLAN AMENDMENTS

1. Amendments to approved site plans for the following purposes are considered to be minor and will be approved administratively:

- a. Changes in lot configurations
- b. Changes in access to the property
- c. Changes in fencing or landscaping
- d. Changes in signage or lighting
- e. Changes in interior private roadway configurations (not including changes in surfacing materials)
- f. Other minor plan changes as may be determined by the Board

2. All proposals for a Use by Special Review administrative site plan amendment under this section shall be submitted to the Commissioners' Office prior to consideration of the request by the Board of County Commissioners. The proposal shall be in written form describing the proposed changes and signed by the applicant. Upon receipt of the written proposal, the planning and zoning official shall advise the applicant that the proposal will be scheduled for a review at the next

regularly scheduled Board meeting date, at which time the Board will assess the matter, and if it is determined that the amendment is administrative in nature, take action on the request. The applicant will be advised of this hearing date and time and may be present before the Board when the matter is discussed. A fee established by the Board of County Commissioners shall be paid at the time of the application.

3. After the hearing and review by the Board of County Commissioners, they will take one of the following actions regarding the case. They may:

- a. Approve as submitted.
- b. Approve with additional or different conditions.
- c. Table (for further information, etc.)
- d. Take the request under advisement, for decision at a later time.
- e. Deny the administrative amendment request and determine that the matter should be considered a formal amendment to the plan requiring Planning Commission review and reposting of the property for public input.

4. If and when an administrative site plan amendment is approved by the Board of County Commissioners, the applicant shall submit a revised mylar to the County which shall be executed and recorded in the permanent land use records within the Clerk and Records Office. The title of the site plan should include the word "Amended".

FORMAL SITE PLAN AMENDMENTS

1. Amendments to approved site plans for the following proposed purposes are considered to be formal and are subject to Planning Commission review and a posting for public notice of the proposed changes to the approved site plan:

- a. Changes of 15 % or more in proposed structure size or building gross floor area
- b. Changes by the addition of structures not approved on the original site plan
- c. Increases in the approved densities for a residential development
- d. Increases in the number of lots approved in the original site plan
- e. Changes in the proposed use of the property as approved
- f. Increases in the approved signage or lighting
- g. Other proposed changes that may have a negative impact upon surrounding properties as may be determined by the Board after an initial review

2. All proposals for a Use by Special Review formal site plan amendment approval under this section shall be submitted to the Commissioners' Office prior to consideration of the request by either the Planning Commission or the Board of County Commissioners. The initial proposal shall be in written form describing the proposed changes and signed by the applicant. A fee established by the Board of County Commissioners shall be paid at the time of the application.

3. Once the complete application submittal is received by the Planning and Zoning official, they will:

- a. "Log in" the submittal and notify the applicant that the case filing is complete.
- b. Refer the submittal to the Planning Commission, and other appropriate agencies, such as the applicable fire department and school district.
- c. Schedule the proposal for a future public hearing before the Washington County Planning Commission.
- d. Send posting requirement instructions to the applicant.

4. Formal site plan amendments shall then follow the same procedure as set forth within paragraphs 4, 5, 6, and 7 of the initial application process as set forth hereinabove.

**TEMPORARY USE
REGULATIONS RELATING TO SPECIAL EVENTS
AND THEIR APPROVAL WITHIN
WASHINGTON COUNTY
TEMPORARY USE PERMIT**

POLICY

To provide for special events within the unincorporated areas of Washington County at which the attendance is expected to exceed 200 or more persons and said event is being held for commercial or other pecuniary purposes and either an admission fee or monetary charge is required to attend or participate in any given 24 hour period, the County will require a temporary use permit in order to provide for security of those persons attending the event and to minimize various adverse impacts that could jeopardize the health, safety and welfare of those attending the event or nearby residents or citizens of Washington County.

PROCEDURES:

The Board of County Commissioners encourages those activities which benefit the citizens of Washington County and which may bring cultural, artistic and / or economic benefits to the County. However it is necessary to assure that those persons attending any event sponsored by an individual, organization and or any other corporate entity be provided with minimum standards of safety, sanitation and protection so as to prevent harm or injury to their persons. Therefore before any such private activity which projects that more than 200 persons will be in attendance at any event not sponsored by a governmental entity, the following will be required to obtain a temporary use permit.

1. The Board requires that application be made by the individual, organization and / or corporate entity detailing the event, the location of the event, and the proposed purpose of the event.
2. The owner of the property upon which the event will take place will be required to sign the application as well as the event sponsor.
3. The application shall contain the following as a minimum:
 - a. A detailed sketch plan of the property illustrating the location of any and all temporary facilities to be erected or placed upon the property in order to conduct the temporary event.
 - b. The proposed number of persons projected to attend the event.
 - c. A detailed proposed security plan which is intended to enhance crowd control, restrict affrays and prevent any and all potential injuries or liabilities due to accidents.
 - d. The proposed access points to the event detailing the County roads to be utilized and an example of any and all signage directing traffic to the event.
 - e. A detailed parking plan for vehicles at the event.

- f. Evidence of an appropriate liability insurance policy which provides liability coverage for the event in an amount not less than \$1,000,000.00 for property damage and personal injury protection for any and all persons attending the event. Also as a minimum, said policy and the owner of the property must agree to indemnify and hold harmless, Washington County, its officials and employees from any and all liability that may be incurred in relation to the proposed event.
 - g. If any road closures are projected a detailed request for those roads and the length of time of the closure.
 - h. Proposed sanitation facilities to be located at the event.
 - i. Proposed vendors, if any, including food, alcohol, and sales.
 - j. A non-refundable application fee of \$500.00 to cover administrative and review costs incurred by County staff.
4. Upon receipt of the aforementioned application, the Board will set a hearing date to review the application and shall forward same to the following individuals or entities and request a response from them within 10 days:
- a. The Washington County Sheriff's Office for review and recommendation regarding any and all safety concerns that office may have.
 - b. To the Fire Department responsible for protecting the property upon which the event is to be held for review and recommendation regarding any and all potential fire or personal hazards.
 - c. To the appropriate Road Supervisor for review and recommendations regarding the access points to the event.
 - d. To the Washington County Planning Commission for review and recommendation.
 - e. To any residences within a two mile radius of the event and to those residents who may be affected by any road closures requested by the applicant.
 - f. Upon receipt of any and all materials submitted to the Board, the Board shall forward same to the applicant in preparation of the public hearing.
 - g. To the Northeast Colorado health department if any food or beverage sales are to be available to persons at the event.
5. At the hearing scheduled as set forth hereinabove, the applicant shall present evidence and testimony in support of the application and address any and all concerns expressed by the referrals made in relation to the proposed event. The Board will review all the evidence and testimony and shall make a decision approving or denying the permit. The Board may take the matter under advisement for decision at a later date, not to exceed 10 days.

6. The following costs may be included in any and all approvals of the temporary use permit:
 - a. If the Planning Commission review requires that the Planning Commission hold a special meeting other than the regular monthly meeting held on the third Monday of every month, the costs of the special meeting shall be born by the applicant.
 - b. If the appropriate fire department determines that it is in the interest of public safety to provide on-site equipment and personnel at the event, the costs of providing said personnel and equipment shall be born by the applicant.
 - c. If the Board so determines due to the type of event or the size of the event based upon the number of persons attending the event that a Washington County Ambulance should be on-site during the event, the costs of providing this service and equipment shall be born by the applicant.
 - d. f the Washington County Sheriff so determines due to the type of event or the size of the event based upon the number of persons attending the event that he or any number of his deputies should be on-site during the event, the costs of providing this service shall be borne by the applicant at current rates for said deputies.

MISCELLANEOUS PROVISIONS / EXEMPTIONS

1. Gatherings such as farm auctions, private family reunions or private weddings, lasting and completed within one calendar day are exempted from the aforementioned provisions. However in the event that said event or private gathering will impact the County primary or secondary road system by parking of vehicles upon County roads, said event organizer has the responsibility to notify the County and adjacent neighbors in advance of the event.

Adopted April 20th 2004 (Resolution 2004-68)

CRMS and Electrical Wind Generation Towers added September 21st 2004 (Resolution 2004-142)

Site Plan Amendments added December 30, 2004 (Resolution 2004-181)

Temporary Use Regulations Relating to Special Events adopted May 31, 2011 (Resolution 102-2011)