

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF PROWERS, STATE OF COLORADO**

A RESOLUTION AMENDING GUIDELINES AND REGULATIONS FOR AREAS AND ACTIVITIES OF STATE INTEREST OF PROWERS COUNTY BY AMENDING CERTAIN PROVISIONS AND ADDING NEW PROVISIONS REGARDING EXEMPTIONS; DEFINITIONS; ADOPTION OF DESIGNATIONS AND REGULATIONS; FINANCIAL SECURITY; WIND ENERGY FACILITIES; SOLAR ENERGY FACILITIES AND CORRECT TYPOGRAPHICAL ERRORS.

WHEREAS, pursuant to C.R.S. §30-11-103 and 30-11-107(1)(e), the Board of County Commissioners of Prowers County, Colorado (hereinafter “Board” or “County”), has the legislative authority to manage the business and concerns of the County and to exercise such other and further powers as are conferred by law when deemed by the Board to be in the interests of the County and its residents; and

WHEREAS, the Board is further authorized by *inter alia*, C.R.S. §§30-28-101, *et seq.*, C.R.S. §§30-28-201, *et seq.*, and C.R.S. §§29-20-101, *et seq.*, to adopt regulations for the protection of the public health, safety and welfare of its residents; and

WHEREAS, the Board has specific authority to regulate and designate matters of state interest, including areas and activities of state interest and to adopt and amend guidelines and regulations for administration of areas and activities of state interest pursuant to the Areas and Activities of State Interest Act, C.R.S. § 24-65.1-101, *et seq.*, in Prowers County; and

WHEREAS, the Board has determined that the “Guidelines and Regulations for Areas and Activities of State Interest, County of Prowers, State of Colorado,” as amended, should be further amended as set forth on the attached “EXHIBIT A” (the “Amendments”); and

WHEREAS, legal notice of the hearing was scheduled on March 7, 2023, in conformance with the requirements of C.R.S. § 24-65.1-404(2)(a) was published in the *Lamar Ledger* on February 2, 2023, and said notice and materials relating to this matter, including the draft Amendments contained on “EXHIBIT A”, were made available to the public at the Prowers County Land Use Administrator and Board of County Commissioners office.

WHEREAS, on March 7, 2023, the Board conducted the public hearing to consider amending the Regulations as advertised, at which hearing various witnesses were heard and exhibits were presented for the Board's consideration, and testimony was taken from County staff and any and all persons desiring to appear and give such testimony and present evidence; and

WHEREAS, based on the evidence, testimony, exhibits and presentations by County staff and all interested persons, and comments, **THE BOARD DOES FIND AS FOLLOWS:**

1. That proper publication and public notice were provided as required by law for the hearing before the Board.

2. That the public hearings were complete, that all pertinent facts, matters and issues were submitted, and all interested persons were heard at the hearing.
3. That all exhibits were received into evidence, which included:
 - a. Copies of the legal notice of the hearing scheduled for March 7, 2023;
 - b. Draft proposed Amendments to the Regulations are attached hereto as "EXHIBIT A;"
 - c. Testimony and exhibits presented by the general public and all interested persons, if any; and
 - d. Presentations made by County staff concerning the Amendments proposed to the Regulations as contained in "EXHIBIT A," including any additional minor revisions identified during the public review and hearing process.
4. That the Board has taken into consideration the following:
 - a. The proposed amendments are in conformance with the "Guidelines and Regulations for Areas and Activities of State Interest, County of Prowers, State of Colorado;" and
 - b. The changes requested promote the public necessity, health, safety and general welfare and is consistent with good land use and zoning practice.
5. That all requirements of law have been met.

NOW THEREFORE, BE IT RESOLVED AND ORDERED:

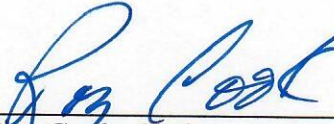
That the "Guidelines and Regulations for Areas and Activities of State Interest, County of Prowers, State of Colorado" as amended on August 17, 2006, and as further amended on October 24, 2017, are further amended as set forth in "EXHIBIT A," which is incorporated herein by this reference.

That the Amendments are hereby declared to be effective upon the effective date of this Resolution.


That the County Attorney is authorized to make additional form and style revisions, including but not limited to spelling, numbering, statutory references and other conforming and non-substantive corrections, prior to public distribution and recording.

That the Prowers County Zoning Regulations, as amended on August 17, 2006, and as further amended on October 24, 2017, shall be supplemented, replaced, superseded or amended by the Amendments only as set forth in "EXHIBIT A;" shall constitute the now currently enacted and effective version; and shall be kept in the office of the Board of County Commissioners for Prowers County, Colorado, there to be made available for public inspection.

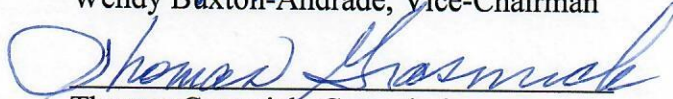
ADOPTED this 21th day of March, 2023, by the Board of County Commissioners of Prowers County, Colorado.



Ron Cook, Chairman



Wendy Buxton-Andrade, Vice-Chairman



Thomas Grasmick, Commissioner

ATTEST:



Jana Coen, County Clerk



**Proposed Amendments to the Guidelines and Regulations for Areas and Activities of State
Interest of Prowers County**

Amendment #1:

1.105 Exemptions.

Add:

(6) The specific development or activity is to be on land wherein pivot corners of a property are non-contiguous 10 acres or less and has public or private road access. Any exemption will run with the land.

Amendment #2:

1.110 Definitions.

(9) Pivot Corners: that portion of the land outside of the pivot's physical boundaries where water is provided to irrigate a particular field. Pivot corners are not irrigated by any method for crop production.

*Renumber 9 to 10

Amendment #3:

1.307 Adoption of Designation and Regulations.

Add:

(2) (e) The balance of private property rights of the property owner with the mitigation of harm to the neighboring property(ies).

Amendment #4:

Current Language:

2.402 Financial Security.

(1) Before any permit is issued, the Permit Authority may, in its discretion, require the applicant to file a guarantee of financial security deemed adequate by the Permit Authority and payable to the County of Prowers.

Add:

Prowers County may require, as a condition of the permit, that the financial security shall be reviewed annually and adjusted, in the Permit Authority's discretion, in consultation with the applicant.

Amendment #5:

Repeal the current language of Section 6.303(3) and replace with the following language:

6.303 Submission Requirements.

(3) Wind Energy Facilities must meet the standards set forth in Section 18(w), Supplementary Regulations of the Prowers County Zoning Regulations. Applicant shall pay all fees associated with these 1041 Regulations.

Amendment #6:

A new Section 6.303(4) shall be added to Chapter 6, Article 3, with the following language:

(4) Solar Energy Facilities must meet the standards set forth in Section 18(x), Supplementary Regulations of the Prowers County Zoning Regulations. Applicant shall pay all fees associated with these 1041 Regulations.

Amendment #7:

Amend 2.202 to add a new (4) and renumber accordingly:

(4) For a Chapter 6 application involving Wind Energy Facilities and Solar Energy Facilities, the application fee shall be \$2,500 and the final fee shall be \$2 per acre with a true up at the end of the 1041 permit process to account for any difference in costs to the Permit Authority.

Amendment #8:

Amend 2.401 to add (3):

(3) For Wind Energy Facilities and Solar Energy Facilities, the development or activity must commence a minimum of five (5) years after the date the permit is issued. Permittee shall schedule an annual review with the Permit Authority to keep the Permit Authority apprised of the development of the project. Applicant may apply for extensions of the permit, as necessary.

Amendment #9:

Amend 2.402 to add (14):

(14) Upon request, the Permit Authority may require an applicant that is transferring a project to a public utility to provide a guarantee of financial security deemed adequate and payable to Prowers County in the form of cash, surety bond or other financial instrument acceptable to the Permit Authority ("Financial Assurance") within the first ten (10) years of the project and can be negotiated with the Permit Authority. The Financial Assurance shall be secured by the applicant or its successors and assigns, for the purpose of adequately performing decommissioning.

Amendment #10:

Amend 2.404 to add a new (3) and renumber accordingly:

(3) A 1041 Permit may be transferred or assigned in whole or in part with consideration of the Permit Authority in a scheduled public hearing. Approval of a transfer or assignment shall not be unreasonably withheld. Any proposed transferee or assignee shall certify that it is capable and willing to comply with all terms and conditions of the 1041 permit.

Amendment #11:

Amend 6.103(10) to fix typographical errors contained within the 1041 Regulations:

“Site Selection” means the process for determining the location of major facilities of a public utility or the expansion of existing major facilities of a public utility.”

Amend 6.103(12) to fix typographical errors contained within the 1041 Regulations:

“Substation” means any facility designed to provide switching, voltage transformation, or voltage control required for the transmission of electricity.

Amendment #12:

Amend 6.103 to add the following definitions and renumber accordingly:

“Wind Energy Facilities” means wind-driven machines or turbines, including blades, towers, bases and pad transformers and associated equipment and structures that convert and connect wind energy into electrical power for the primary purpose of sale, resale or offsite use.

“Turbine Tip Height” means the height of the turbine measured from the base of the tower to the tip of the blade at a 12 o’clock position.

Amendment #13:

Amend 6.103 to add the following definitions and renumber accordingly:

“Solar Energy Facilities” means solar collector or other device that provides for the collection of sunlight for the conversion of sunlight to energy.