MEMO

To: Wyoming County Commissioners
From: Jerimiah Rieman, WCCA Executive Director
Date: January 9, 2026
Re: **County Planning and Zoning Authority in Wyoming – Wind, Solar, and Emerging Technologies**

Executive Summary

County commissioners in Wyoming increasingly contend with applications for large-scale renewable energy facilities (wind and solar), battery storage, data/AI centers, and related infrastructure. Understanding the scope of county planning and zoning authority and how that authority intersects with state statutes, case law, and emerging technologies is critical as commissioners exercise their official duties.

This memorandum provides (1) an overview of the current legal and regulatory framework governing county planning and zoning authority in Wyoming, (2) an explanation of how that authority applies to wind and solar energy facilities and related infrastructure; and (3) considerations for regulating emerging technologies within existing statutory constraints.

Key takeaways:

- Counties operate under the "Dillon Rule," meaning they may exercise only those powers expressly granted by statute or necessarily implied therefrom, in contrast to the broad home rule authority exercised by cities and towns.
- Under Wyoming Statute (W.S.) § 18-5-201, counties *may* regulate the location and use of buildings, structures, and land in unincorporated areas to promote public health, safety, morals, and general welfare; however, counties without zoning regulations have limited authority to control land use activities.
    - Under W.S. § 18-5-203, once a zoning certificate application complies with the county's zoning regulations, the board of county commissioners must grant it; discretionary denial is limited.
- A specific statutory framework for wind and solar energy facilities exists under Title 18, Chapter 5, Article 5, including permit requirements, minimum standards, and county authority under W.S. 18-5-509 to refer projects to the Industrial Siting Council for additional state-level review.
    - Under W.S. § 18-5-507, once a wind or solar energy facility zoning certificate application complies with the county's zoning regulations, the board of county commissioners must grant it; discretionary denial is limited.
- Emerging technologies (e.g., battery storage, large data/AI centers) may not yet be fully addressed by statute; counties should plan ahead and, if desired, adopt zoning regulations through the public regulatory process to address these uses.

- Thoughtful and regularly reviewed planning and regulatory tools, including zoning regulations where adopted, permit standards under specific statutory authorities, clear application and review procedures, and meaningful notice and public comment processes, are key to maintaining certainty, managing risks, protecting public interest (e.g., health, safety, welfare), and preserving county authority as development patterns and technologies evolve.

Overview of County Planning and Zoning Authority

Wyoming counties operate as political subdivisions of the State and *may* exercise only those powers expressed by the Wyoming Constitution or statutory law, or those reasonably implied from such grants. The general powers and duties of county commissioners are set forth in W.S. § 18-3-504 and include a broad range of administration and operational responsibilities required by state law, such as managing county property, adopting budgets, and constructing and maintaining county roads. Within this framework, counties also provide additional services – often at the request of residents – such as planning and zoning, building regulation, fire protection, public health, and other community services, with the scope and extent of those services shaped by each county's unique economic, geographic, and social characteristics.

Dillon Rule and County Powers

Wyoming Counties operate under the Dillon Rule, which limits county authority to powers that are (1) expressly granted by state law, (2) necessarily or fairly implied from those express grants, and (3) essential to the existence and functioning of county government. As a result, counties *may not* act based on general notions of local control or policy preference; rather, all county resolutions, regulations, and permitting decisions – particularly in areas such as land use, planning and zoning – must be firmly grounded in statutory authority enacted by the legislature. This framework makes it critical that county zoning authority be clearly and properly adopted before it is enforced. Unlike home-rule governments, counties cannot rely on comprehensive plan policies, generalized public concerns, or ad hoc decision-making to regulate land use. Instead, enforceable zoning authority exists only where the board of county commissioners has adopted zoning resolutions and standards pursuant to Title 18, Chapter 5, and counties are strictly bound by those adopted standards. When zoning regulations are clear and properly enacted, they provide the legal basis for defensible permit conditions and denials; conversely, where standards are vague, incomplete, or absent, a county risks facing increased litigation exposure. Clear, well-adopted zoning regulations therefore serve as the foundation for lawful, predictable, and effective county land-use decision-making.

Comprehensive Plans, Zoning Resolutions, and Certificates

Wyoming law requires all 23 counties to adopt comprehensive plans or land-use plans to guide future growth and development within unincorporated areas of the county. County planning and zoning authority is established under Title 18, Chapter 5 of Wyoming statutes and applies exclusively to land located outside municipal boundaries. A comprehensive

plan – sometimes referred to as a master plan or general plan – serves as the county's long-range policy document and includes maps, goals, policies, and guidelines addressing physical, social, and economic development. In contrast, a land-use plan focuses more narrowly on land-use policy and zoning, addressing how land should be developed or conserved over time to meet changing community needs, including subdivisions, infrastructure, public facilities, and rights-of-way. Importantly, both comprehensive and land use plans should be viewed as living documents that warrant periodic review and updating.

Once a comprehensive or land-use plan is adopted (with public input), the board of county commissioners *may* regulate the location and use of buildings, structures, and land in unincorporated areas of the county pursuant to W.S. § 18-5-201. The statute expressly states that county planning and zoning authority exists "to promote the public health, safety, morals and general welfare of the county." While these terms provide the overarching purpose for zoning authority, they are not expressly defined by the Wyoming Legislature.

Wyoming law requires counties to follow a sequential process: zoning regulations *may* only be adopted after a comprehensive plan is in place, and zoning is the primary legal mechanism for implementing and enforcing that plan. In *Ford v. Board of County Commissioners of Converse County*, the Wyoming Supreme Court confirmed that zoning is the only authorized means of enforcing the goals of a comprehensive plan, underscoring the importance of clearly adopted zoning regulations as the legal foundation for land-use control. Properly adopted zoning regulations provide transparency, predictability, and consistency that allow the public and project proponents to understand and rely upon established standards, promote fair and consistent decision-making, and reduce uncertainty, conflict, and litigation.

It is important to distinguish between planning authority and regulatory authority. While comprehensive and land use plans are required by law, they are not self-executing and do not, by themselves, create enforceable land use restrictions. In counties that have not adopted zoning regulations, a comprehensive plan functions solely as a policy guide and *may not* be used to deny, condition, or restrict land uses based on plan consistency or general welfare considerations alone. In the absence of zoning, counties remain limited to those regulatory authorities expressly granted elsewhere in statute, such as authority over subdivision review, enforcement of building codes where adopted, and the exercise of general police powers independent of land use zoning. Accordingly, counties that wish to actively manage land use, guide development patterns, or impose location-specific restrictions must adopt zoning regulations through a transparent public process.

The zoning process begins with the appointment of a county planning and zoning commission under W.S. § 18-5-202. This commission serves in an advisory role and is responsible for preparing the comprehensive plan, recommending zoning district boundaries, and proposing zoning regulations appropriate for each district. Before submitting a comprehensive plan or zoning recommendation to the board of county commissioners, the planning and zoning commission must hold at least one public hearing,

with notice published at least 30 days in advance in a newspaper of general circulation. Any member of the public *may* petition the commission to amend a previously adopted land-use plan, reinforcing transparency and public participation in county land-use decision-making.

After receiving recommendations from the planning and zoning commission, the board of county commissioners must hold its own public hearing before adopting zoning regulations or amendments. Following the hearing, the board votes on whether to adopt the commission's recommendations. Once zoning regulations are adopted, counties administer those regulations through zoning certificates and permits, as required under W.S. § 18-5-203. These certificates serve as the mechanism by which counties confirm that proposed land uses or development comply with adopted zoning standards.

Limitations on County Zoning Authority

While counties in Wyoming are granted authority to plan and zone unincorporated areas, in some cases, that authority is expressly limited by statute and case law. Under W.S. § 18-5-201(a), counties *may not* exercise zoning powers in ways that exceed or conflict with state law. Specifically, counties *may not* infringe upon the zoning authority of incorporated municipalities; prohibit the reasonable use or occupancy of land necessary for the extraction and production of mineral resources; impede residential or agricultural uses on land divisions that are statutorily exempt from subdivision regulation; or impose zoning standards on private schools that differ from those applied to public schools.

In addition to these express statutory limits, Wyoming law further restricts how and when counties *may* regulate land use through temporary measures such as moratoriums or "freezes." In *Schoeller v. Board of County Commissioners of Park County*, the Wyoming Supreme Court held that emergency land-use freezes may be imposed only temporarily and cannot become permanent policy without proper notice, public hearings, and adoption consistent with statutory procedures. Moratoriums may exist only long enough to allow the county to complete the required planning process. The Court and Attorney General have further recognized that while comprehensive plans must address the entire county, counties *may* adopt special plans for areas experiencing unique development pressures (Attorney General Opinion 81-001). Together, these authorities underscore that counties must exercise zoning power deliberately, transparently, and within clearly defined statutory boundaries. County commissioners seeking additional guidance on statutory or case-law limitations on zoning authority are encouraged to consult their county attorney for further assistance.

Question: *Under Wyoming law, do county commissioners have discretion to deny a zoning certificate when a project proponent's application fully complies with all applicable county planning and zoning regulations?*

Under Wyoming law, county commissioners generally do *not* have discretion to deny a zoning certificate when a project proponent's application fully complies with the county's duly adopted zoning regulations. W.S. § 18-5-203 expressly provides that the board of county commissioners or its designee *shall grant* a zoning certificate when the proposed

construction or use complies with the applicable zoning resolution, and any denial must be based on identified non-compliance with those regulations. Accordingly, a board *may not* deny a zoning certificate based on generalized policy concerns, public opposition, or preference for a different outcome where the application satisfies all applicable requirements.

However, a county *may* deny a zoning certificate where the application fails to comply with applicable zoning regulations, conditional use criteria, or other standards properly adopted pursuant to statute, or where the governing statute provides additional discretionary authority. Compliance is measured against the regulations in effect at the time of application, and ambiguities in those regulations may require interpretation. If a denial occurs, the county must specify the regulatory basis for its decision, and the applicant retains the right to appeal. In short, while counties retain authority to regulate land use through zoning, once an application is submitted that is deemed compliant, Wyoming law generally requires approval rather than discretionary denial.

County Authority over Wind and Solar Facilities and Related Infrastructure

Per W.S. § 18-5-502(a), it is unlawful to locate, erect, construct, reconstruct, or enlarge a wind or solar energy facility without first obtaining a permit from the board of county commissioner in the county in which the facility is located. A wind energy facility is defined as a wind-powered electrical generation development consisting of one or more turbines rated by the manufacturer to generate more than one-half megawatt of electricity, including all contiguous lands where the developer has rights to erect turbines. Similarly, a solar energy facility is defined as a commercial solar development with a rated power capacity exceeding one-half megawatt, including all lands where the developer has rights to install solar facilities and associated infrastructure, such as battery storage.

State statute further establishes a defined permitting process for wind and solar projects, including application requirements and timelines for county action. Counties are also directed to apply minimum construction standards set forth in W.S. § 18-5-504. These statutory standards establish a baseline for project review; counties *may* adopt and enforce more stringent local requirements related to siting, setbacks, notice, and operational impacts, provided those requirements are properly adopted. However, counties are expressly prohibited from imposing more stringent standards for decommissioning and reclamation, which are governed by statewide requirements established by the Industrial Siting Council (ISC) under W.S. § 35-12-105(d).

In addition to county permitting authority, certain wind and solar projects are subject to review by the ISC. Wind facilities consisting of 20 or more turbines and solar facilities with a rated capacity exceeding 30 megawatts, resulting in at least 100 acres of surface disturbance, or expansions meeting those thresholds, must obtain an ISC permit. Under W.S. § 18-5-509, county commissioners also retain authority to refer a proposed wind or solar energy facility to the ISC for review when certain statutory criteria are met. This referral authority allows counties to ensure that larger or more complex projects receive comprehensive state review in addition to local consideration.

A board of county commissioners evaluates whether wind and solar energy facilities comply with the county's duly adopted zoning regulations and any additional siting or permitting standards adopted pursuant to Title 18, Chapter 5, Article 5. The review typically focuses on land use considerations, including site location and compatibility with surrounding uses, setbacks, road and traffic impacts, noise, visual impacts, emergency access and response, coordination with local service providers, and compliance with notice and public hearing requirements. The county's role is grounded in determining whether the application meets applicable local standards and statutory minimums, and, where authorized, imposing reasonable conditions to mitigate local impacts.

The ISC's review is broader in scope and statewide in focus, encompassing environmental, socioeconomic, and infrastructure impacts, including impacts on wildlife, water resources, air quality, housing, workforce, public services, reclamation, and cumulative effects. The ISC also administers and enforces uniform statewide standards for decommissioning and reclamation. While counties retain an important role in providing input and coordination during the ISC process, the ISC ultimately determines whether large-scale facilities may proceed based on statewide interests and statutory criteria.

For county commissioners, this statutory framework underscores the importance of understanding both local and state roles in reviewing renewable energy and related infrastructure projects. Counties retain meaningful authority to regulate wind and solar facilities through properly adopted local regulations, while also serving as a gateway to state-level review for projects that meet ISC thresholds. Early coordination with applicants and state agencies, coupled with clear local standards, helps counties address local interests, maintain regulatory certainty, and ensure projects are reviewed in a lawful and efficient manner.

Question: *Under Wyoming law, do county commissioners have discretion to deny a wind or solar zoning certificate when a project proponent's application fully complies with all applicable county planning and zoning regulations?*

Under Wyoming law, county commissioners generally do *not* have discretion to deny a wind or solar zoning certificate when a project proponent's application fully complies with all applicable planning and zoning regulations and the standards set forth in statute. The wind and solar permitting statutes in Title 18, Chapter 5, Article 5 mirror the mandatory approval framework found elsewhere in Wyoming zoning law. In particular, W.S. § 18-5-507 provides that the board of county commissioners *shall grant* a permit for a wind or solar energy facility if the board determines that the proposed facility complies with all standards properly adopted by the county and the minimum standards required by statute. As with zoning certificates under W.S. § 18-5-203, this "shall grant" language limits discretionary denial based on policy preference, public opposition, or generalized concerns where regulatory compliance is established. County discretion is exercised primarily through the adoption of clear, enforceable local standards and the evaluation of whether an

application meets those standards. Accordingly, the scope of county authority in wind and solar permitting depends less on discretion at the time of application and more on the quality and clarity of the zoning regulations and permitting standards adopted in advance.

Planning and Zoning Considerations for Emerging Technologies

While wind and solar are more established under statute, counties are increasingly encountering:

- Large battery storage facilities (often paired with wind and solar) which raise issues of land use, fire safety, chemical and hazardous materials concerns, and decommissioning.
- Data/AI centers require land use, heavy electric power, cooling, and possibly hazardous materials or specialized infrastructure.
- High-voltage transmission collector systems, grid-scale infrastructure, site expansions.
- Hybrid energy facilities (e.g., blue or green hydrogen) which blur traditional categories.

These facilities implicate county land use, zoning, infrastructure (road, grid access), emergency services, aesthetic and scenic impacts, noise considerations, environmental constraints, and decommissioning and reclamation.

Because statutory and county regulatory regimes may not explicitly address emerging technologies, counties should consider whether their zoning regulations adequately contemplate emerging technologies and, if not, whether amendments or new regulations are warranted. To ensure a county is well positioned to review, regulate, and permit emerging technologies, commissioners may wish to consider these options:

- Updating comprehensive plans and zoning regulations to address evolving technologies and infrastructure needs and to identify suitable development areas, recognizing that this effort may require assistance from qualified planning or technical consultants with proficiency in land-use planning, energy infrastructure, and emerging technologies.
- Creating or updating county natural resource plans to address projects that may affect or overlap federal, state, and private lands, ensuring coordination with federal land management agencies, consistency with county land-use objectives, and protection of local interests.
- Aligning permitting timelines with statutory requirements and, in consultation with legal counsel, ensuring decisions are supported by written findings associated with adopted standards, providing predictability to applicants and reducing litigation risk.
- Encouraging early, informal, and non-binding communication with project proponents, as appropriate, to better understand proposed projects, communicate applicable requirements, and identify potential issues that could be avoided through early coordination, without creating expectations regarding decisions.

- Coordinating early with state agencies and other jurisdictions, particularly where projects may trigger Industrial Siting Council review or cross county, state, or federal jurisdictions.
- Utilizing technical expertise at the permit review stage, including county staff or outside consultants with expertise in emerging technologies, to evaluate project-specific impacts, assist in applying adopted standards, and develop clear, defensible permit conditions where authorized.
- Incorporating public education and stakeholder engagement in the review process, recognizing that transparency and early communication help build public trust and reduce conflict.

Conclusion

Thoughtful and regularly reviewed comprehensive plans, zoning regulations where adopted, and clear application and review procedures are essential to maintaining certainty, managing risk, protecting the public interest, and preserving county authority as development patterns and technologies evolve. Counties are not required to rely indefinitely on planning or regulatory frameworks that no longer adequately address changing conditions, but neither are they required to adopt zoning if that approach does not align with local priorities. For county that do choose to regulate land use through zoning, periodic updates can clarify expectations and strengthen local authority. For counties without zoning, proactive use of available statutory tools such as wind and solar permitting authority, coordination with the Industrial Siting Council, and early engagement with project proponents, can help address community concerns and manage impacts within existing legal constraints. While these efforts may require deliberate work and public engagement, they are often preferable to reacting to development under outdated, incomplete, or ill-suited frameworks.