



WYOMING LEGISLATIVE SERVICE OFFICE

Fact Sheet

WYOMING STATE LANDS

SPECIAL USE LEASES AND TEMPORARY USE PERMITS

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QUESTION:

Under current law, state land special use lessees must comply with local zoning laws. Why are state land temporary use permittees not required to comply with local zoning laws?

SHORT ANSWER:

Wyoming statute specifically authorizes the Board of Land Commissioners to issue State land special use leases and requires lessees to comply with local zoning laws. By contrast, State land temporary use permits are a product of Board of Land Commissioners rules and are not specifically authorized or regulated in Wyoming statute. Board of Land Commissioners temporary use permit rules do not require permittees to comply with local zoning laws.

DISCUSSION

Special Use Leases

In 2004, the Wyoming Legislature enacted HB 122, which amended the Board of Land Commissioners' authority to lease state lands for industrial, commercial, and recreational purposes. The 2004 Act increased the maximum term of industrial, commercial, and recreational leases from 25 years to 75 years,¹ and added the requirement that the Board promulgate rules and regulations implementing policies, procedures, and standards for such leases, including provisions requiring compliance with all applicable land use planning and zoning laws.²

As required by the 2004 Act, the Board of Land Commissioners promulgated rules for Special Use Leasing, effective May 11, 2007.³ The Special Use Leasing rules require (a) the lease applicant to submit evidence that all proposed uses are in compliance with all applicable local land use

¹ W.S. 36-5-114(a).

² W.S. 36-5-114(d).

³ Board of Land Commissioners, Rules and Regulations, Chapter 5, Special Use Leasing.

planning and zoning laws; or (b) the State to effect changes to existing land use planning and zoning laws that will allow the intended uses.⁴

See **Appendix A** for Wyoming Statutes 36-5-114 through 36-5-117 regarding leasing of state lands for industrial commercial and recreational purposes.

Temporary Use Permits⁵

Wyoming Statute 36-2-107(a) gives the Board of Land Commissioners power and authority to promulgate and adopt rules and regulations as necessary for the direction, control, disposition, and care of all State lands. The statute requires rules adopted under this subsection to provide that weed and pest control on all state lands be coordinated with and managed by the Department of Agriculture, pursuant to the Wyoming Weed and Pest Control Act.⁶

See **Appendix B** for W.S. 36-2-107.

Under the authority of W.S. 36-2-107, the Board of Land Commissioners promulgated rules and regulations for Temporary Use Permits, effective November 1, 2001. The Temporary Use Permit rules allow the Board to issue permits for specified uses of state land for specified periods of time. The allowed temporary uses and specified permit terms are shown in **Table 1**.

Table 1. State Land Temporary Use Permit Uses and Terms

Allowed Temporary Uses	Permit Terms
Construction activities	1 year
Hot mix facilities	2 years
Organized recreation activities	30 days
Roadways	5 years
Sign boards	5 years
Stockpile sites	2 years
Water wells	5 years
Disposal and/or injection wells	5 years
Outfitting/guiding activities	5 years
Non-commercial removal of decorative rock/stone	15 days
Other appropriate facilities and activities of temporary duration	Not specified

Source: Board of Land Commissioners, Rules and Regulations, Chapter 14, Temporary Use Permits.

⁴ Board of Land Commissioners, Rules and Regulations, Chapter 5, Section 6 (f).

⁵ Board of Land Commissioners, Rules and Regulations, Chapter 14, Temporary Use Permits.

⁶ W.S. 36-2-107(a).

The Chapter 14 Temporary Use Permit rules state that uses which are more appropriately authorized under other Board authorizations shall not be authorized under this Chapter.⁷

Unlike the Board of Land Commissioner Special Use Leasing rules, the Temporary Use Permit rules do not require permittees to comply with local land use planning or zoning laws.

See **Appendix C** for Board of Land Commissioners, Rules and Regulations, Chapter 14, Temporary Use Permits.

If you need further information, please contact the LSO Research/Evaluation Division at 307-777-7881.

⁷ Board of Land Commissioners, Rules and Regulations, Chapter 14, Temporary Use Permits, Section 3.

Appendix A. Wyoming Statutes governing State land leases for industrial, commercial and recreational purposes.

[Wyoming Statutes Annotated](#) > [Title 36 State Lands \(Chs. 1 – 12\)](#) > [Chapter 5 Leasing Generally \(§§ 36-5-101 – 36-5-117\)](#)

§ 36-5-114. Leasing for industrial, commercial and recreational purposes; authority; rental fees; rules and regulations.

- (a) The board of land commissioners may lease for a term of not more than seventy-five (75) years state lands for industrial, commercial and recreational purposes.
- (b) The board may lease state lands for purposes which shall bring about the compatible use of the surface area and shall inure to the greatest long term benefit of the state land trust. Provided, however, that nothing herein contained shall result in the substantive impairment of existing leases or the preferential right to the renewal thereof.
- (c) The board shall fix a rental value based upon not less than the fair market value of each use of the land. If the land to be leased under this subsection was originally acquired by the state for the benefit of the common school permanent land fund, and is to be used by a Wyoming school district for the construction and maintenance of school buildings and facilities, the board may assess an annual rental fee of one hundred dollars (\$100.00) per acre or not less than fair market value, whichever is less.
- (d) The board shall promulgate rules and regulations implementing policies, procedures and standards for the long-term leasing of state lands for industrial, commercial and recreational purposes under the provisions of [W.S. 36-5-114](#) through [36-5-117](#), including provisions requiring compliance with all applicable land use planning and zoning laws and permitting the board to terminate a lease for good cause shown.

§ 36-5-115. Leasing for industrial, commercial and recreational purposes; “recreational purposes” defined.

As used in [W.S. 36-5-114](#) through [36-5-117](#) the term “recreational purposes” means land used for cabin sites, public camp sites, public parks and recreation areas, golf courses and any associated residential development, youth groups and ski or winter sports areas.

§ 36-5-116. Leasing for industrial, commercial and recreational purposes; assignment or transfer.

Leases issued under the provisions of [W.S. 36-5-114](#) through [36-5-117](#) shall not be assignable or transferable except with written consent of the board of land commissioners.

Appendix B. Board of Land Commissioners rulemaking authority

[Wyoming Statutes Annotated](#) > [Title 36 State Lands \(Chs. 1 – 12\)](#) > [Chapter 2 Board of Land Commissioners \(Arts. 1 – 2\)](#) > [Article 1. In General \(§§ 36-2-101 – 36-2-110\)](#)

§ 36-2-107. Rules and regulations; general penalty for violations; enforcement.

(a) The board shall have the power and authority to promulgate and adopt rules and regulations not inconsistent with the laws of the state, as it may from time to time deem necessary in the direction, control, disposition and care of all state lands, and to preserve the value of the land and to recognize the fiduciary duties of the state land office. Rules adopted under this subsection shall provide that weed and pest control on all state lands be coordinated with and managed by the department of agriculture pursuant to the Wyoming Weed and Pest Control Act.

(b) Any person who knowingly violates any provision of this subsection is guilty of a misdemeanor and shall be fined not more than seven hundred fifty dollars (\$750.00), imprisoned for not more than six (6) months, or both. In addition, any person found guilty under this section may be ordered to pay restitution to the board for actual pecuniary damage resulting from the illegal actions of the person. Restitution may be excused if a court finds that the defendant has no ability to pay. In determining the amount of restitution under this subsection, the court shall consider, and include as a special finding, the reasonably foreseeable actual pecuniary damage that has or will result from the illegal activities of the defendant. Any restitution received under this subsection shall be deposited into an account designated by the board for use to restore the rights and property of the board. The acts prohibited under this subsection are:

- (i) Damaging state lands under circumstances not a violation of [W.S. 6-3-201](#);
- (ii) Using a motor vehicle on state lands off an established road as defined by the board or on a road closed by the board;
- (iii) Charging for or receiving payment for purposes of allowing persons to engage in hunting, fishing or any other recreational use of state lands, unless the payment is collected pursuant to a lease or temporary use permit issued by the state;
- (iv) Building, maintaining, using or attending an open fire, campfire or charcoal grill on state land except in areas established by the board;
- (v) Camping overnight on state land except in areas established by the board;
- (vi) Violating any lawful order issued by the board pursuant to [W.S. 36-2-101](#) to protect state lands and assets from resource damage; and
- (vii) Violating any lawful order issued by the board closing state lands for the purpose of protecting public health and safety.

(c) Any peace officer as defined in [W.S. 7-2-101](#) shall have the authority to enforce this section on state lands. Any game and fish department law enforcement personnel qualified pursuant to [W.S. 9-1-701](#) through [9-1-707](#) shall have authority to enforce this section to the extent that there is no diminishment in federal funds provided for under [W.S. 23-1-601](#) and [23-1-602](#).

(d) The provisions of subsection (b) of this section shall not apply to the actions of any person acting pursuant to the terms of a valid lease, authorization or permit issued by the board.

Lands and Investments, Office of

Land Commissioners, Board of

Chapter 14: Temporary Use Permits

Effective Date: 11/01/2001 to Current

Rule Type: Current Rules & Regulations

Reference Number: 060.0002.14.11012001

**RULES AND REGULATIONS
BOARD OF LAND COMMISSIONERS**

Chapter 14

Temporary Use Permits

Section 1. Authority

This chapter is promulgated under authority of W.S. 36-2-107.

Section 2. Definitions

As used in this chapter:

- (a) “Board” means the Board of Land Commissioners.
- (b) “Director” means the Director of the Office of State Lands and Investments.
- (c) “Office” means the Office of State Lands and Investments.
- (d) “Outfitting/guiding activities” means outfitting and guiding for the purpose of hunting big game and trophy game animals as defined in W.S. 23-1-101.
- (e) “State lands” means lands under the jurisdiction of the Board of Land Commissioners.
- (f) “Surface impact payment” means money paid by a permit applicant in compensation for potential negative impacts to the leasehold estate resulting from use pursuant to a temporary use permit granted under this chapter, including, but not limited to, destruction of forage, disruption of grazing, agricultural, or commercial operations, nuisance, and inconvenience.
- (g) “Surface lessee” means a holder of a grazing and agricultural lease or special use lease issued in accordance with Chapters 4 or 5 of these rules.
- (h) “Temporary use permit” means a license which authorizes the permittee to use specific state land for a particular use for a limited term.

Section 3. Temporary Uses

The Board may issue permits for the following temporary uses of state land, however uses which are more appropriately authorized under other Board authorizations shall not be authorized under this chapter:

- (a) Construction activities
- (b) Hot mix facilities
- (c) Organized recreation activities
- (d) Roadways

- (e) Sign boards
- (f) Stockpile sites
- (g) Water Wells
- (h) Disposal and/or Injection Wells
- (i) Outfitting/guiding activities
- (j) Non-commercial removal of decorative rock/stone.
- (k) Other appropriate facilities and activities of temporary duration.

Section 4. Term

The term of temporary use permits shall be limited to that listed below:

- (a) Construction activities - 1 year
- (b) Hot mix facilities - 2 years
- (c) Organized recreation activities - 30 days
- (d) Roadways - 5 years
- (e) Sign boards - 5 years
- (f) Stockpile sites - 2 years
- (g) Water Wells - 5 years
- (h) Disposal and/or Injection Wells - 5 years
- (i) Outfitting/guiding activities - 5 years
- (j) Non-Commercial removal of decorative rock/stone -15 days

Section 5. Surface Impacts

For all temporary use permits:

(a) Surface impact payments. Prior to commencing use of the state land, the permittee shall remit directly to the surface lessee of the state land, if any, a surface impact payment in accordance with a schedule maintained and updated by the Office which reflects impact to the leasehold interest. The schedule of surface impact payments will be reviewed and approved by the Board annually.

(b) Reclamation. Upon completion of the permitted use, all state land disturbed by the permittee shall be restored to a condition and forage density reasonably similar to its original condition and forage density.

Section 6. Consideration

(a) Consideration for temporary use permits shall be negotiated on a case by case basis, provided that the following minimum consideration shall apply:

- (i) Construction activities - \$10/acre affected or \$100, whichever is greater
- (ii) Hot mix facilities - \$500/year
- (iii) Organized recreation activities - \$25/day
- (iv) Roadways - \$1/linear rod/year or \$100/year whichever is greater.

- (v) Sign boards - \$1/square foot of sign/year or \$100/year, whichever is greater.
- (vi) Stockpile sites - \$100/year
- (vii) Water Wells - \$10/acre-foot of water removed from state land or \$100/year whichever is greater.
- (viii) Disposal or Injection Wells - Market Value per barrel or \$100.00/year whichever is greater.
- (ix) Outfitting/guiding activities - For exclusive (to outfitters) permits 15¢/acre/year or \$150/year, whichever is greater. For nonexclusive permits \$150/year.
- (x) Non-Commercial removal of decorative rock/stone - \$50/ton.

(b) The consideration for temporary use permits issued to landowners for roadways across state lands may be the reciprocal rights granted to use roadways across the lands owned by the landowners.

Section 7. Application Procedure

(a) Applications. Persons desiring permission to use state land for a temporary purpose as provided in this chapter shall submit to the Director a completed application, including the lessee comment form and the fee as established in Chapter 17.

(b) Preliminary Approval. With the exception of applications for exclusive outfitting/guiding permits filed pursuant to Section 8 of this chapter the Director shall preliminarily approve or disapprove the application no less than 20 days, nor more than 30 days, after receipt of a completed application. In no case shall the Director preliminarily approve the application unless the consideration required under Section 6 of this chapter has been received.

(c) Effect of Preliminary Approval. Upon preliminary approval of the application, the applicant may commence the permitted use. However, the applicant bears the risk that the Board may ultimately disapprove the application.

(d) Final Approval. The Board shall approve or disapprove the application at its next regular meeting following the Director's action under subsection (b) of this section. If the application is disapproved and no permitted use has occurred, the consideration collected under Section 6 of this chapter and any related surface impact payment collected by the lessee shall be returned to the applicant.

Section 8. Outfitting/Guiding Activities

(a) Applicability. The provisions of this section shall apply only to temporary use permits for outfitting/guiding activities.

(b) **Permit Types and Limitations.** Temporary use permits for outfitting/guiding activities may be issued on either an exclusive (to outfitters) or nonexclusive basis. Exclusive permits shall be effective only on those state land parcels specified in the permit. The Board shall not issue more than one exclusive permit for outfitting/guiding activities on the same parcel of state land. Campsites for outfitting/guiding activities and improvements that are not removed at the end of each hunting season shall only be authorized under an exclusive permit. Nonexclusive permits shall be effective on all state lands within a permittee's hunt area authorizations except for those state lands incorporated in an exclusive outfitting/guiding permit area. Nonexclusive permits shall authorize day uses only with no overnight camping permitted. With the exception of activities at Board approved campsites associated with exclusive outfitting/guiding permits, the provisions of Chapter 13 of these rules prohibiting off-road vehicle use, open fires, overnight camping and hunting on cultivated cropland apply to all outfitters, guides, and clients while on state land.

(c) **Application Filing Period.** Applications for exclusive temporary use permits for outfitting/guiding activities shall be accepted by the Office between April 1 and May 31 of each year. Applications for nonexclusive temporary use permits for outfitting/guiding activities shall be accepted by the Office anytime during the year.

(d) **Lessee Notification.** Applications for exclusive outfitting/guiding permits shall include the lessee comment form but this requirement shall not apply to applications for nonexclusive outfitting/guiding permits. Holders of nonexclusive outfitting/guiding permits shall, prior to their entry on state lands, use their best efforts and any available means to notify the surface lessee(s) of their intent to conduct outfitting/guiding activities on the state lands.

(e) **Conflicting Exclusive Permit Applications.** If two or more completed applications for exclusive temporary use permits to conduct outfitting/guiding activities on the same land are filed within the filing period established in subsection (c) of this section, they shall be considered to be in conflict. Once the filing period ends, the Office shall notify the respective applicants that conflicting applications have been received. The applicants shall have 15 days from date of notice to submit their final permit consideration bid and any necessary additional consideration payment. The exclusive permit, if approved by the Board, shall be issued to the high bidder.

(f) **Permit Anniversary Date.** Exclusive and nonexclusive temporary use permits for outfitting/guiding activities shall be issued to become effective on August 1, unless unique circumstances require a different effective date.

(g) **Cross-compliance Provisions.** Only persons holding a current license from the Wyoming State Board of Outfitters and Professional Guides shall be qualified to hold a permit under this section. In the event a permittee's license is suspended, revoked, or not renewed for any reason, the temporary use permit shall terminate automatically without further proceedings. Permittees shall comply with the hunt areas and species authorizations contained in their respective license from the Wyoming State Board of Outfitters and Professional Guides while on state land.

Section 9. Permit Cancellation

The Board may cancel permits issued under this chapter for violation of any of the terms and conditions of the permit or of the applicable rules and regulations of the Board. The Board may cancel

or modify permits on their anniversary date in order to facilitate the sale or exchange of lands within the permit area.

Section 10. Permit Transferability

Permits issued under this chapter are not transferable.