

August 9, 2021

Planning and Development Commission
Pueblo, Colorado

Dear Board of County Commissioners,

The proposed solar facility amendment to the Pueblo County "Title 17 Land Use" is an applauded endeavor and your foresight is greatly appreciated.

These needed regulations will aid Pueblo County to continue to be a leader in embracing the "green" movement and at the same time protect the residents of the county.

I ask for your speedy implementation of these regulations.

Sonia Mondragon

August 9th, 2021

Planning and Development Commission

Pueblo, Colorado

Dear Pueblo Commissioners,

Our family and local area neighborhood has been following the development commission for the Pueblo County "Title 17 Land Use" for regulations on solar panel use. The "green" solar farms are part of our future to our area if we like it or not. Regulations need to be in place to protect our county as a whole and the residents that will be in close proximity to these solar farms.

I ask for your immediate consideration of the regulations under the "Title 17 Land Use".

Joy Troutt

1790 Rosevale Crt, Pueblo , Co 81006

From: [oncall](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW:
Date: Monday, August 9, 2021 9:57:47 AM

Received on planning email.

Thanks,
Terrence

From: Scot Carpenter <scotthecarpenter1971@gmail.com>
Sent: Monday, August 9, 2021 8:54 AM
To: [planning1](#) <planning@pueblounty.us>
Subject:

Dear commissioners,

After an in-depth review of the proposed amendment to the Pueblo County "Title 17 Land Use" there was at least one item that concerned me.

During the virtual meeting with Mr. Darren Coffey (the Berkley Group) on June 23rd, Mr. Coffey recommended a 1 mile separation from a city, town or other community boundary (approximately 19 minutes into the video).

The 17-168-050 amendments proposed by the Planning Committee are considerably less than this recommendation.
Specifically: Page 8

F. Minimum Development and Performance Standards.

3. Setbacks

a.

ii. 150 feet from all other parcels

b.500 feet from the nearest dwelling

If understood correctly these distances are 1/10th of those suggested by Mr. Coffey. Mr. Coffey did state that these were not firm distances, but the distances in the proposed amendments appear to be a bit extreme. 500 feet might be minimal in a naturally forested location, but areas suited for solar installations in Pueblo County are open prairies with unobstructed views. Possibly ¼ mile would be adequate, but ½ mile would more desirable.

SCOT CARPENTER, scotthecarpenter1971@gmail.com

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Pronghorn Solar #1041-2021-005
Date: Tuesday, August 10, 2021 6:46:23 PM

-----Original Message-----

From: Mitchell, Steven <mitchellst@pueblocounty.us>
Sent: Tuesday, August 10, 2021 4:38 PM
To: planning1 <planning@pueblocounty.us>
Cc: Medina, Dustin <medinad@pueblocounty.us>
Subject: FW: Pronghorn Solar #1041-2021-005

Good Afternoon:

This arrived in the website "comments and suggestions" mailbox.

Thank you,
Steve Mitchell
Pueblo County Information Services
719-583-4865

-----Original Message-----

From: Pueblo County <webmaster@pueblocounty.us>
Sent: Monday, August 9, 2021 7:37 PM
To: Mitchell, Steven <mitchellst@pueblocounty.us>
Cc: Medina, Dustin <medinad@pueblocounty.us>
Subject: Pronghorn Solar #1041-2021-005

Submitted on Mon, 08/09/2021 - 07:37 PM
Submitted by: Visitor

Submitted values are:

Your Name: Rhonda Pighetti
Your Email: rpighetti@hotmail.com
Your Telephone: 7194064046
Subject: Pronghorn Solar #1041-2021-005
Message:
Dear Commissioners;

We are residents of Lakeside Manor and are very concerned about the solar farm location. We are not against solar energy and we own a set of 10 panels, in our backyard. Our biggest concern is how close to our residence this large project would be. It will effect the value of our home and it will be an eyesore. We have been the original owners of our home and we have worked hard in multiple improvements over the years. Our view from our backyard is beautiful, and we don't want that to change. Please consider the amendments presented and a relocation of the Pronghorn solar farm, further away from Lakeside Manor.

Sincerely,
Mike and Rhonda Pighetti
2390 Brushville Lane
Pueblo, CO 81006

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Solar Energy Concerns
Date: Tuesday, August 10, 2021 2:37:51 PM

From: TALCA WOODS <talca_10@msn.com>
Sent: Tuesday, August 10, 2021 2:31 PM
To: planning1 <planning@pueblocounty.us>
Subject: Solar Energy Concerns

Dear Fellow Citizens of Pueblo County,

It is with grave concern and attained truth's that I urge you to deny the request for the 800 plus acre solar project know as Pronghorn Solar.

When I first became aware of the proposal to build a "solar farm" in my immediate neighborhood, I said, "I am not against solar energy, but not in my backyard." Then I began to investigate what is "solar energy?"

Solar Energy is from the sun. All other components of "solar energy" are TOXIC! It is comprised of cement, aluminum, silicon, polymers, cadmium, chromium, copper, and glass. China is the leading producer of solar panels in the world. The leakage of toxins from the solar panels will contaminate the soil and seep into our water and irrigation resources, which in turn will affect our produce. Cadmium does not have any odor or taste and is very poisonous. This would endanger and compromise the health of our citizens of Pueblo County.

"Solar Energy is intermittent. If the sun is not shining, there is no energy produced. it is not a reliable energy source. There has to be a back up system, which is the energy source that is presently in place, "fossil fuel", that is producing energy 24/7. The "solar energy" can not be stored for later use, and the cost to convert back and forth between the two is very costly. The cost would fall back on the consumer, which in turn would cause "energy poverty"; electric bills to large to financially handle.

There is not any kind of recycle process available. Solar panels last up to 25 years, then they are left abandoned or shipped to a land fill. Which will continue to leak toxins into our precious soil.

The bottom line is "solar energy" is costly, toxic, requires a large land mass to produce a small amount of energy, and destroys the environment!

Thank you for allowing me to share my concerns and the consequences of "solar energy." Please take the time to investigate every avenue of the Pronghorn Proposal and view the attached video by Michael Shellenberger an Environmentalist, titled Why Renewables Can't Save The Planet:
<https://www.youtube.com/watch?v=N-yALPEpV4w>

I leave you with this one question, what is “green” about solar? There is a dark side to “solar energy.” It is symbolically green. After investigation as a citizen of Pueblo County, I ponder why would anyone ever allow “solar energy” to be a supplier of electricity to any community! It is by far the most expensive and the most hazardous choice of energy anyone could have ever dreamed up!

Blessings,
Talca Woods

Sent from [Mail](#) for Windows 10

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Solar facility amendment
Date: Tuesday, August 10, 2021 2:10:04 PM

-----Original Message-----

From: Deb Walters <debwalters61@gmail.com>
Sent: Tuesday, August 10, 2021 12:59 PM
To: planning1 <planning@pueblocounty.us>
Subject: Solar facility amendment

Dear Commissioners,

I am writing this letter in support of the "Title 17 Land Use" Solar facility amendment. I love the idea of going green and I live with an awareness and appreciation for the world around me. I have created a wonderful sanctuary that I call home on 18th Lane, I do not use herbicides and pesticides, I compost and recycle. I am a "tree hugger" and value this planet so very much. I believe in supporting the growing "green" industry. That said, we do need to be aware of the fact that many people will continue to be greedy and want to make money at all costs and at the expense of the community. Thank you for providing regulations that will protect our properties and our lifestyle from industry that will work to get the most out of their resource with little regard to how it will affect the neighbors. They may not value the surrounding properties and may wish to take advantage to satisfy their own greed. . Keep in mind that open space is needed for our local wildlife. Coyotes, fox, pronghorn, deer are part of this ecosystem and are our neighbors. They keep a valuable balance. Our backyards and views are essential for our peace of mind and well being. Pueblo County has a rich, vibrant culture. Thank you for your continued support for this special community and all it offers. Again, thank you for working to protect the well being of your constituents.

Deborah Walters
1455 18th Lane
Pueblo, Colorado 81006

From: [oncall](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Solar projects
Date: Wednesday, August 11, 2021 8:06:53 AM

-----Original Message-----

From: DALE BAUGHMAN <dbaug13615@aol.com>
Sent: Wednesday, August 11, 2021 6:29 AM
To: [planning1](#) <planning@pueblocounty.us>
Subject: Solar projects

I hope we improve our guidelines for solar projects and learn from other states and communities that recommend building them a mile from existing suburban area. That way communities are not negatively affected by heat increases protect property values and wildlife viewing in our area deer antelope quail etc. worry construction to close to homes will push rattle snakes to communities where children play. Protect our country living would want to see solar panels or the wildlife in your back yards honestly ? Thanks Dale Country boy all my life

Sent from my iPad

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Solar Regulation Amendments to County Code Title 17
Date: Sunday, August 8, 2021 7:01:25 PM

From: Teresa Chavez <cgrammalucy2@gmail.com>
Sent: Sunday, August 8, 2021 1:22 PM
To: planning1 <planning@pueblounty.us>
Subject: Solar Regulation Amendments to County Code Title 17

Pueblo Planning & Development Commission

Dear Committee Members:

Thank you for your diligent and thoughtful research into data needed to project Pueblo into the future phases of land use. The recommendations of the Berkley Group were extensive and well-thought out. These proposed regulations to the existing county code Title 17 to add a new section: 17.168.050 - Solar Energy Facilities- are much needed. As we develop new land uses to promote projects designed to protect our environment, we will also be protecting our communities far and wide.

It is our hope that these new regulations will be implemented and referred to often as needed to keep up with our changing times. (Pueblo Mayor, Nick Gradisar, recently voiced that the city may be looking toward adding NUCLEAR ENERGY!!)

Again, thank you for your foresight.

Nick and Teresa Chavez

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Solar
Date: Sunday, August 8, 2021 6:59:57 PM

From: Jim O'Donnell <sylviaodon@aol.com>
Sent: Sunday, August 8, 2021 8:09 AM
To: planning1 <planning@pueblounty.us>
Subject: Solar

8-8-2012

Sirs;

My concern with the Solar is the locations near residential areas. I am afraid that Pueblo County will become the dumping ground for Colorado Springs and Denver Solar Installations. Those cities will be saving space for growth which Pueblo County will need as we grow.
James O'Donnell

1785 Harlow ave.
Pueblo, CO
81006

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: The purposed "Title 17 Land Use" Solar fields being considered
Date: Monday, August 9, 2021 10:55:08 AM

From: Sharen Hall <shallwelcome2016@gmail.com>
Sent: Monday, August 9, 2021 10:12 AM
To: planning1 <planning@pueblolocounty.us>
Subject: The purposed "Title 17 Land Use" Solar fields being considered

Planning and Development Commission
Pueblo, Colorado

Dear Commissioners,

The regulations concerning the solar development in Pueblo, CO should be carefully followed as the solar field will negatively impact residential homes especially the Lakeside Manor Estates .

The regulations should be followed with a mile barrier between residential homes and any construction development.

Galen and Sharen Hall

August 9th, 2021

Planning and Development Commission

Pueblo, Colorado

Dear Pueblo Commissioners,

Our family and local area neighborhood has been following the development commission for the Pueblo County "Title 17 Land Use" for regulations on solar panel use. The "green" solar farms are part of our future to our area if we like it or not. Regulations need to be in place to protect our county as a whole and the residents that will be in close proximity to these solar farms.

I ask for your immediate consideration of the regulations under the "Title 17 Land Use".

Joy Troutt

1790 Rosevale Crt, Pueblo , Co 81006

Planning and Development Commission

Pueblo, Colorado

Dear commissioners,

I live in Lakeside Manor, an extremely welcoming and kind community. We value our community; the proposed solar farm, Pronghorn Solar, is extremely concerning as it would destroy the natural beauty of this area and have a significant impact on the wildlife and the native vegetation.

Solar farms similar to this have been rejected in the past due to economic and health risks. Placing this industrial complex next to a residential neighborhood would have many devastating economic and social consequences for residents of Lakeside Manor and surrounding communities.

Not only does this solar field affect the life around us, but it takes from why we all decided Pueblo County was where we wanted to reside, to raise a family and to enjoy what time we have. My backyard is the field that this solar farm wants to take. Cows, deer and horses are constantly in an arm's length and I can't express in words how much my children love this and look forward to this.

If this solar farm absolutely passes, I wish, and my neighbors wish, is to not have it in view from our kitchen windows. During the virtual meeting with Mr. Darren Coffey (the Berkley Group) on June 23rd, Mr. Coffey recommended a one mile separation from a city, town or other community boundary – this would suffice. Any closer to my home would be concerning for all the reasons above.

Thank you for the opportunity to voice my concern.

Lindsay Woods

From: [ashnmason](#)
To: [Howard, Carmen](#)
Subject: Pronghorn solar
Date: Friday, August 6, 2021 9:31:09 PM

Good evening Ms Howard,
My name is Ashley VanDeventer. I purchased my home in the lakeside manor estates 1 year ago. I grew up in this neighborhood with my grandparents living just two houses down from me. I understand that solar is an important asset to many. I'm worried about what this will do in the future to our home value, health, wildlife and views. Right now this solar plant will be put right in my backyard. I feel there are so many areas in Pueblo or surrounding areas away from homes they could potentially look for instead of right in our community. I know you are getting hundreds of letters from all around lakeside manor. I want my children to have this community be a place they love. The solar could cause dangerous electromagnetic radiation and lower our life expectancy. We have so many elderly living in this area that this could take their lives this includes my grandparents. I know this may not seem big to many but all of these elderly people have daily that want them around as long as possible. Will pronghorn pay for our lives ones death do to this radiation? I personally want to see my children grow and see them have babies this could potentially cut not only mine but my childrens lives short as well. What would happen when we get heavy rains and the land is now mowed over so we will have flooding? Should we just accept our home being flooded and insurance not covering it? Is there anything we can do to stop this permit from going through?

Thank you for your time,
Ashley VanDeventer



David Cockrell
225 Midnight Ave.
Pueblo, CO 81005

August 10, 2021

MEMORANDUM

TO: Pueblo County Planning Commission

FROM: David Cockrell, Ph.D., AICP

SUBJECT: Land Use Code Amendment on Solar Energy Facilities

I am writing to provide public comment on the current draft land use code amendment on solar facility development, and to request a continuance of this issue for 60 days from its introduction at the next planning commission meeting so that more study and public input can be considered.

I am a retired planner and professor, including a five-year assignment as senior neighborhood planner for the City of Pueblo. After retirement I served as a member of Pueblo's Energy Future and co-chaired the Ready for 100 Campaign in Pueblo that led to adoption of the City's and County's 100% renewable energy pledges. I have studied energy policy and testified on dockets at the Public Utilities Commission. I have also written county comprehensive plans and land use codes as a senior planner with URS Corporation. Currently I sit on the Sierra Club's national Conservation Policy Committee, which is coincidentally currently completing a new renewable energy siting policy which may help inform some of your decisions.

I am in agreement with much of the proposed draft code provided by the Berkley Group. I believe the zone district assignments are appropriate (with the caveat below in my concern #2). The general provisions, 1041 process, and application process all make good sense. The requirements for concept plans and development plans, to include environmental assessments, transportation and grading plans are appropriate and consistent with your requirements for other industrial development. I have some concerns about prohibiting storage at medium-scale facilities, requiring all facilities to be within a mile of a transmission line, and a few other issues noted in my comments on the draft code (attached to this memo).

There are several issues that I believe require further discussion, examination of model codes (SolSmart, NREL, American Planning Association, Bureau of Land Management, and others), and public input. I am summarizing these issues below. I would ask that you consider a 60-day delay in the decision-making process to permit a full consideration of these issues and more.

Issues Requiring Further Clarification:

1. **Distinctions between medium-scale and large-scale solar facilities:** The new proposed regulations define medium-scale facilities as 1 MW or smaller, with a maximum land area of 10 acres. Facilities larger than this are categorized as large-scale. However, the Berkeley Group memo notes that Chapter 17.168 of the land use code, "Site Selection and Construction of Major Facilities of Public Utilities", currently defines power plants as including solar or wind generating facilities *greater than 2 MW* in capacity. There are several challenges that come with establishing these two categories.

The Black Hills solar gardens program typically includes 500kW and 2 MW installations. The regulation requiring separation of solar facilities by a mile appears to apply to medium-scale facilities as well as large-scale. If this regulation is applied to medium-scale facilities, it would prohibit the next two solar gardens planned by Black Hills in Vineland, as both facilities are slated for a single property, totaling 1.99 MW together ([Pueblo Chieftain, June 15, 2021](#)).

As a second example, community solar installations (solar gardens) are typically connected to the local electric distribution system, not the regional transmission system, making the requirement that medium-scale facilities be located within a mile of transmission lines nonsensical.

It does seem that other model standards (SolSmart, NREL, American Planning Association) draw the line at 1MW. However, it would reduce seemingly artificial regulations to define these categories based on the actual on-the-ground distinctions between solar gardens and utility-scale solar in our community, so that we can facilitate the development of both in appropriate locations.

2. **Appropriate zone districts for solar installations:** I basically agree with the recommendation to restrict solar installations as uses by right in A-1 and P-1 zone districts only. Every proposed installation and site is a unique puzzle which must be examined on its merits, but I believe the 1041 permit process provides adequate structure for examining individual proposals in these districts.

Chapters 17.68 Special Industrial District (I-1), 17.72 Light Industrial District (I-2), and 17.76 Heavy Industrial District (I-3) allow “electric power plant” by Special Use Permit from the Planning Commission, and I would recommend that both medium-scale and large-scale solar installations continue to be permitted as uses by review in those districts with the proposed required 1041 permit process and the proposed performance standards. I think there will be very few projects that are good fits for these zone districts, but the more flexibility we can provide for developers, the better.

3. **The 65% maximum site coverage requirement:** The Berkley Group provides no rationale for this standard. [NREL’s 2013 Land Use Requirements for power plants](#) describes panel coverage percentages from 13% to 92% in their study of 152 utility-scale installations. There are many “packing factors” considered in panel spacing. For example, fixed mount panels require less space per panel than single axis or double axis mounts, and amount of direct sunlight impacts the choice of mounts.

Sixty five percent coverage may be a reasonable standard, but a clear rationale is needed. If the purpose of the limitation is to maintain a minimum base of native vegetation and other species that depend on it, some reference to existing standards specific the shortgrass prairie should be provided. This priority would be weighed against the “energy density” (MWac/acre) of this chosen land use. If fire protection and weed control are considerations, a higher density than 65% may support that priority.

4. **Buffer Zones and Setbacks:** The distinctions between and separate roles for these two components of the performance standards are not clear.

5. **Decommissioning requirements:** The standards for Battery safety requirements, decommissioning time schedules and requirements (e.g. removing foundations) seem quite rigorous. These may be standard components of the County's decommissioning requirements for other types of development, but I am wondering if these are consistent with land use regulations *specific to solar installations* in other jurisdictions.

Thank you for your consideration of my suggestions, and I look forward to further conversations about the draft code as you move to adoption.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Cockrell".

David Cockrell, Ph.D., AICP

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities
Date: Monday, August 9, 2021 2:59:47 PM

From: Heather Maio <heathermaio54@gmail.com>
Sent: Monday, August 9, 2021 2:01 PM
To: planning1 <planning@pueblounty.us>
Subject: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Pueblo County Planning and Development Commission
229 W 12th St
Pueblo, CO 81003

August 5, 2021

RE: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Planning Commission,

Our organization has requested that the proposed draft solar amendments for Solar Energy Facilities for our county have 60 more days for review.

With just a cursory review, it has been noted that there was no engagement with industry. These proposed changes will upend years of a fruitful partnership between the County and the solar industry. The impact of these regulations and changes, would be to dramatically increase costs and lower investment in the County. Rather than use a one-size-fits-all approach from an out-of-state consultant, the County should engage with all stakeholders to ensure a solution that works best for the residents of Pueblo County.

And as written, neither Evraz nor Comanche build out of solar panels would meet these requirements. And these solar panel build outs have put Pueblo on the map as a solar energy mecca!

Please do not approve this proposed ordinance now. Allow for further review and discussion and have a robust stakeholder engagement process with all impacted parties to find the right solution for Pueblo County.

Sincerely,

Ken Danti, President (ken@reoca.org)
Heather Maio, Secretary (heather@reoca.org)
Board of Directors

REOCA (Renewable Energy Owners Coalition of America)

Cc: County Commissioners

Garrison Ortiz

Chris Wiseman

Eppie Griego



August 6, 2021

Pueblo County Planning Commission
215 W. 10th Street
Pueblo, Colorado 81003

Via Email: planning@pueblounty.us

*Re: Proposed Code revision “**17.168.050 Solar Facilities.**”*

Dear Commissioners:

The Colorado Independent Energy Association (“CIEA”) presents the following comments for your consideration on the proposed amendments to the land use code for “Solar Facilities”. CIEA is a trade organization comprised of independent power producers (IPPs) who develop power generation projects, including solar electric generation projects. CIEA’s mission is to safeguard an open and transparent competitive market for energy generation in order to both grow the independent energy market in Colorado and to keep electric rates lower. Our member companies have consistently invested in Pueblo County over the last decade to take advantage of its abundant, efficient sunlight and favorable business climate.

CIEA has reviewed the proposed land use code amendments to add **Section 17.168.050 Solar Facilities**. The proposed amendments present several new barriers to project development and, as a result, the continued growth of the solar energy market in Pueblo County. The Commission should table these proposed amendments given the widespread concern being expressed by the generation development industry that must decide whether to continue to invest in Pueblo County.

Discouraging solar project development in Pueblo County will not slow solar industry development in general, but it will lead to other Colorado counties welcoming solar development and investment moving in that direction. At the same time, if the costs to build solar power increase for projects already slated for development in Pueblo County, residential and commercial ratepayers end up paying those costs. On the other hand, working cooperatively with the industry can lead to the addition of best practices in land use reforms to thoughtfully incorporate solar project development

into the land use code. CIEA recommends that the Commission engage with the business community to create a code that addresses the goals of each of the Commission and the industry.

This situation is acute because Colorado utilities will soon be making significant generation investments to come online during the coming decade based on pending utility electric resource plans (ERPs). Solar energy and battery storage will likely be contracted in historic amounts in these ERPs. IPPs are making investment decisions today regarding potential projects that will be the most competitive in the bidding processes for that generation need. If Pueblo County implements the proposed amendments, solar development will become more expensive, making those projects less likely to be developed. This would be a loss of economic development opportunity and tax revenues at the apex of the market in Colorado.

The proposed amendment could have the unintended result of requiring more construction over a larger footprint closer to the river. Solar projects would be materially less competitive under the proposed panel limit in Section F(2)(c) of 65% of a Project Area, which ignores the reality of how solar projects are developed across the country. Section J(1)(a)(v) references County well review authority and a “Department of Environmental Quality” that do not exist in Colorado. The lack of approved zoning areas and increased setback restrictions, coupled with restrictions on density of panels, will squeeze project footprints and change project economics.

Pueblo County landowners in zoning areas where solar development is no longer authorized without a waiver will be the most disadvantaged. Restricting access to most current zoning areas will greatly limit the ability of Pueblo County landowners to take advantage of the economic opportunities to develop land with solar power. Under the proposed amendments, existing and successful solar projects like Comanche Solar and Evraz solar could not have been developed.

CIEA looks forward to working with the Commission in a discussion with the industry on potential revised amendments that meet the objectives of the Commission and of independent energy project developers.

Sincerely,



Mark D. Detsky

Dietze and Davis, P.C.

On behalf of the Colorado Independent Energy Association
mdetsky@dietzedavis.com



August 6, 2021

Pueblo County Planning Commission
215 W 10th St
Pueblo, CO 81003

RE: Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Planning Commissioners:

The American Clean Power Association (ACP) understands that the Berkely Group has provided the Pueblo County Planning Commission with recommendations to amend the County's current solar energy ordinance¹. Adopting restrictive siting standards on development of solar energy projects in Pueblo County will dramatically alter the positive progress on projects that are currently in the pipeline and potentially harm future investment decisions. We appreciate the opportunity to provide input and address concerns with regards to several of the new conditions propose.

ACP is a national trade association representing a broad range of businesses in clean energy, including the solar energy industry. Utility-scale solar is the third largest source generating 46,000 megawatts (MW) of energy nationwide, enough to power 11 million homes. As of 2021, solar projects across the United States contributed an estimated \$750 million in state and local taxes, and to farmers, ranchers, and other private landowners in the form of lease payments².

In Colorado, 2021 clean energy investments total an estimated \$44.4 million in state and local property taxes, and \$16.6 million in lease payments to private landowners³.

We commend Pueblo County for committing to achieve 100% renewable energy by 2035. However, to ensure the County, as well as businesses, schools and households can access clean energy, there needs to be a reasonable pathway to securing project permits. We address some of the more restrictive components proposed by the Berkely Group in Pueblo County Code Title 17, Division II, Chapter 17.168 in the new section, 17.168.050, "Solar Energy Facilities."

¹ Pueblo County. Solar Regulation Amendments, July 22, 2021. Available at: <https://county.pueblo.org/planning-and-development/pueblo-county-code-solar-regulation-amendments>.

² American Clean Power Association (ACP). Utility-scale solar power facts. Available at: <https://cleanpower.org/facts/solar-power/>

³ ACP. Clean Power Colorado Fact Sheet. Available at: https://cleanpower.org/wp-content/uploads/2021/05/Colorado_clean_energy_factsheet_Q2-2021.pdf.

Part 5. Utility-Scale Solar Facility Development and Performance Standards.

A. Construction and Operations.

i. Locational and Dimensional Standards for Solar Facilities

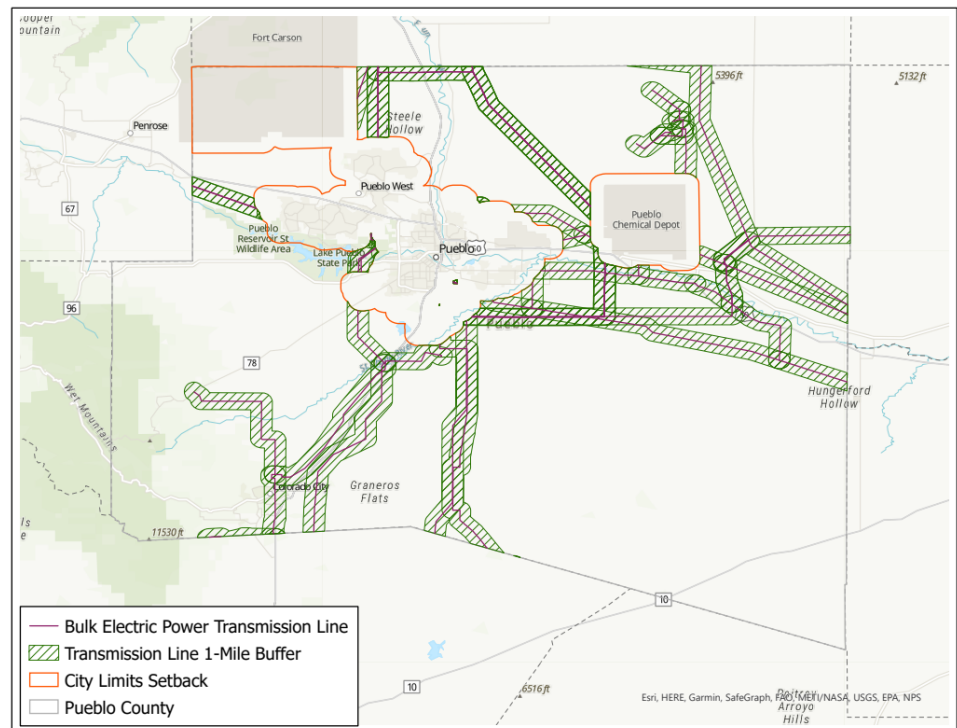
Provision 5.A.i.(a) places an arbitrary acreage cap on the maximum solar project size in Pueblo County. The justification for a per project size cap is unclear. Such a cap would effectively limit landowner participation in a solar project unnecessarily restricting landowners who wish to install solar panels on their property and artificially limit solar development in the county. Should this ordinance go into effect, several projects in various stages of development would be negatively impacted and likely not be able to move forward.

Provision 5.A.i.(b) mandates less than 65% of panel coverage in relation to the project area, requiring developers to arbitrarily spread solar arrays across the project site. The reason for this provision is unclear since it could result in the need for larger tracts of land to meet project output. This is not only impractical for solar development but impedes opportunities for colocation of the project with other uses, such as agriculture. This provision appears to counter the County's stated goal to minimize solar impacts on other resources.

Provision 5.A.i.(c)-(g) restrict both medium and large-scale solar deployment within radii of various jurisdictions, leading to a patchwork of restricted lands for solar development. It is unclear why the County proposes to restrict solar development in zones A-1, I-4, and P-1 when utility-scale solar projects have minimal impacts on surrounding ecosystems and households⁴. These restrictions, coupled with the suggestion to only site solar facilities within one (1) mile of existing transmission lines recommended on Page (4) by the Berkeley Group, would significantly limit a landowner's right to lease their land for renewable energy deployment. Should this amendment be adopted by the County, only the parcels within the area of the

⁴ National Renewable Energy Laboratory. Top Five Large-Scale Solar Myths, February 3rd, 2016. Available at: <https://www.nrel.gov/state-local-tribal/blog/posts/top-five-large-scale-solar-myths.html>

figure below have the right to deploy medium or large-scale solar energy.



ii. Setbacks

Setback requirements are designed to protect a neighbor's property in the rare events of equipment failure. Solar companies manage this risk through detailed study and analysis, careful engineering, and cautious standard operating procedures. There is currently no evidence to support the need for additional public safety benefit for longer setbacks –such as the 500' setbacks proposed this section - from non-participating property lines or residences.

Part D. Decommissioning and Reclamation Plan

Since solar farms operate for 30 years or more, developers recognize and understand the need to address concerns about what happens to the solar panels and ancillary components once they reach the end of their useful life. It is crucial to know that landowners and host communities are never responsible for the costs associated with removing solar panels and ancillary components once they have reached their end-of-life cycle.



Common practice across jurisdictions in the United States is to provide financial surety in the amount equal to the total decommissioning cost, less salvage value. Therefore, it is unclear why the county excludes salvage value of project equipment from the cost of decommissioning as stated in Section (iv). In fact, the Commonwealth of Virginia -- where the Berkley Group has performed most consulting services for local jurisdictions -- explicitly gives independent professionals the right to include salvage value in decommissioning estimates. (Code of Virginia, § 15.2-2241.2.)

Salvaged materials from solar projects include racking systems, panels, fencing, equipment that retains value but can easily be repurposed. In some cases, the cost of decommissioning a solar project is less than the value of the salvaged materials. Excluding salvaged materials from the cost of decommissioning needlessly raises costs for developers. Furthermore, the additional bonding requirements {5.D.vi.(e)} for revegetation are redundant with the decommission bond. Not only does this bond increase costs of development without justification, but it assumes that the landowner would like to immediately return the land to its previous use.

Conclusion

Solar energy developers are responsible community members and business partners throughout the state of Colorado. These overly restrictive siting proposals will hinder Pueblo's ability to take advantage of the tremendous economic opportunity that solar development presents in the state of the next decade. We appreciate the opportunity to provide comments on the proposed regulation amendments. Thank you for your consideration of the issues raised.

Sincerely,

A handwritten signature in black ink, appearing to read "David Murray", with a stylized flourish at the end.

David Murray
Director of Solar Policy
dmurray@cleanpower.org

From: [Ward, Laurie](#)
To: [Howard, Carmen](#)
Subject: FW: Pueblo County Code Amendment Regarding Solar Energy Facilities
Date: Friday, August 6, 2021 9:27:53 AM

FYI off of our website and I am forwarding it to you.

From: Pueblo County <webmaster@pueblocounty.us>
Sent: Thursday, August 5, 2021 3:12 PM
To: Ward, Laurie <wardla@pueblocounty.us>
Subject: Pueblo County Code Amendment Regarding Solar Energy Facilities

Submitted on Thu, 08/05/2021 - 03:12 PM

Submitted by: Visitor

Submitted values are:

Your Name

Heather L Maio

Your Email

heather@reoca.org

Your Telephone

[7195538052](tel:7195538052)

Subject

Pueblo County Code Amendment Regarding Solar Energy Facilities

Message

Pueblo County Planning and Development Commission
229 W 12th St
Pueblo, CO 81003

August 5, 2021

RE: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Planning Commission,

We are aware of the new, proposed draft solar amendments for Solar Energy Facilities for our county. After receiving them in late July, we have found that these amendments are of such importance and complexity, that we would ask for more time to review them. We would ask for at least another 60 days, if possible.

Thank you for your attention to this matter.

Sincerely,

Ken Danti, President (ken@reoca.org)
Heather Maio, Secretary (heather@reoca.org)
Board of Directors
REOCA (Renewable Energy Owners Coalition of America)

Cc: County Commissioners
Garrison Ortiz
Chris Wiseman
Eppie Griego

|

From: [oncall](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities
Date: Tuesday, August 10, 2021 8:15:11 AM

From: Marie Venner <marie@vennerconsulting.com>
Sent: Monday, August 9, 2021 8:32 PM
To: planning1 <planning@pueblounty.us>
Subject: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Planning Commission and Planning Staff (please distribute),

I am writing to you from the Small Business Alliance and as a former city planning commissioner.

We are aware of the new, proposed draft solar amendments for Solar Energy Facilities for our county. We have found that these amendments are of such importance and complexity, that we would ask for more time to review them. We would ask for at least another 60 days to sufficiently review and improve the amendments.

If not delayed it is essential to vote no on this ordinance.

As landowners it is overly restrictive and hampers the ability of businesses, homeowners, and more to use our land, infringing on property rights. **We want to be open for solar development and local ownership. That is really important for development of and not extraction from Pueblo, as we have endured so long from BHP and Xcel and now proposals from other investors seeking to extract 9-11% rates of return for outside investors.** Please do not use a one-size-fits-all approach from an out-of-state consultant, the County should engage with all stakeholders to ensure a solution that works best for the residents of Pueblo County.

We should be embracing solar and all that Pueblo can do to build and own it and have the returns from it for the community, workers, and homeowners.

Thank you for your attention to this matter.

Sincerely,

Marie Venner
Chair, Small Business Alliance

17.168.050 Solar Facilities.

Section contents:

- A. Purpose.
- B. Intent.
- C. Zoning districts.
- D. General Provisions.
- E. Application Requirements.
- F. Minimum Development and Performance Standards.
- G. Special provisions for Battery Storage.
- H. Special provisions for Substations.
- I. Decommissioning and Reclamation.
- J. General Conditions.

In addition to other requirements of the Pueblo County Code and 1041 Permit process, applications for a large scale solar facility (i.e., medium-scale and utility-scale) shall be subject to the following provisions:

- A. Purpose. The purpose of these application requirements and performance standards regarding Solar Facilities is to establish requirements for construction and operation of solar facilities (excluding small-scale solar facilities) and to provide standards for the placement, design, construction, monitoring, modification, and removal of such facilities; address public safety, minimize impacts on scenic, natural, and historic resources; and provide adequate financial assurance for decommissioning.
- B. Intent. The regulations set forth herein are intended to provide a consolidated list of requirements for the proper consideration of these project applications. If regulations in other sections are inconsistent with those set forth herein, then the more restrictive requirement shall prevail. To the extent possible, all other zoning and land development requirements are consistent with those presented in this section.
- C. Zoning districts.
 - 1. Solar facilities shall be subject to a 1041 Permit as a primary use in zoning districts A-1 and P-1.
 - 2. Solar facilities should locate on brownfields, County-owned capped landfills, or near existing industrial uses, where feasible but not within Development Action Areas.
 - 3. Battery facilities shall be subject to a 1041 Permit. They shall be permitted as
 - a. An ancillary use to solar facilities in A-1 and P-1 zoning districts.
 - b. A primary use adjacent to other energy generation facilities and substations.
- D. General Provisions.
 - 1. Term of Solar Facilities. A 1041 Permit for a Solar Facility may be approved for the proposed operational life of a facility, but not to exceed 40 years. The permit may be reviewed after 20 years with specific focus on the project's status and conditions. The Permit may also be renewed during this review for an additional period to align with the operational life of the facility.[MW1]

2. Project Area. The area included in the Development Plan should include the project boundary, solar facility, PV pods, and buffer zones. The Project Area may include multiple parcels and portions of parcels, which may be leased parcels or leased areas of parcels, and, for purposes of this section, the sum of this area shall be the Project Area and the boundaries of this area shall be the Project Boundary. The purpose of the Project Area is to accommodate a single Solar Facility. Furthermore,
 - a. All parcels and portions of parcels within the Project Area, when taken collectively, may or may not form one solid area (e.g., when separated by streets), and may form a collection of areas and some areas may have holes or voids [MW2] (e.g., when a parcel is not included in the 1041 Permit but is surrounded by properties that are included in the permit). The Project Boundary shall include the boundaries around these holes or voids and shall also run along streets within the Project Area;
 - b. The area within the Project Area shall be considered a single Solar Facility. However, any portion of the Project Area shall not be more than one-half (1/2) mile from the remainder of the Project Area, or [MW3]r else such portion shall be considered a separate Solar Facility;
 - c. The equipment within a Solar Facility shall include photovoltaic (PV) panels, which are often organized into groupings referred to as PV pods, and may also include charge regulators, inverters, and various accessory uses and structures such as parking areas and fencing. The equipment within Utility-Scale Solar Facilities, but not Small-Scale or Medium-Scale Solar Facilities, may also include substations, which are also referred to as transformers, and Battery Energy Storage Facilities;
 - d. A Buffer Zone within the Project Area shall be established for the purpose of mitigating the effects of the Solar Facility upon surrounding properties and the community at large, and shall be an area reserved for open space, landscaping, or berming, and which shall be located between the Project [MW4] Boundary or Official Street Line, if applicable, and the required Project Boundary Setback.
3. Pre-application meeting. Schedule a pre-application [MW5] meeting with the Zoning Administrator to discuss the location, scale, and nature of the proposed use and what will be expected during that process.
4. Comprehensive Plan Review. A review by Planning staff of Solar Facility proposals to determine if their general or approximate location, character and extent are substantially in accord with the Pueblo Regional Development Plan (Comprehensive Plan) or part thereof. This review is to be included in the staff report for the Board of County Commissioners (BOCC) consideration.
5. Neighborhood Meeting (not applicable in P-1). A neighborhood meeting shall be held prior to the public hearing with the BOCC to give the community an opportunity to hear from the applicant and ask questions regarding the proposed project.
 - a. The applicant shall provide a copy of any letter or notice to the Zoning Administrator prior to sending out to the public to ensure information is complete and correct.
 - b. The applicant shall inform in writing: 1) all owners of record of lands located

within 1,000 feet of the property as indicated[MW6] on the certified list of such owners provided with the application, 2) the Zoning Administrator on all notified property owners, and 3) the Zoning Administrator of the date, time, and location of the meeting, at least seven but no more than 14 days[MW7], in advance of the meeting date.

- c. The date, time, and location of the meeting shall be advertised in the official County newspaper by the applicant, at least seven but no more than 14[MW8] days, in advance of the meeting date.
- d. The meeting shall be held within the County at a location open to the public with adequate parking and seating facilities which may accommodate persons with disabilities.
- e. The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant, and provide feedback.
- f. The applicant shall provide to the Zoning Administrator a summary of any input received from members of the public at the meeting and proof of advertisement of the meeting.

E. Application Requirements. A complete 1041 Permit application shall include:

- 1. Owner Authorization and Information. Documentation of land ownership and/or legal authority to construct all properties[MW9] within the Project Area.
- 2. Solar Facility Narrative. A narrative giving a general overview of the Solar Facility, which includes:
 - a. The owner and the operator of the proposed Solar Facility and the applicant,
 - b. The intended utility company to interconnect to the Solar Facility,
 - c. The current uses and physical characteristics of the Project Area and the surrounding area,
 - d. Approximate Rated Capacity of the solar facility project,
 - e. Type and location of interconnection to electrical grid as coordinated and pre-approved with the appurtenant Power Utility Commission (PUC),
 - f. Approximate number of panels and representative types,
 - g. The Project Area and Solar Photovoltaic Panel Coverage expressed in acres.
 - h. An inventory with description of all proposed structures and uses including Battery Energy Storage Facilities, inverters, substations, and all structures over 60 ft. in height.
 - i. A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.
- 3. Concept Plan. In addition to the Development Plan, a Concept Plan of the Project Area consisting of aerial imagery of the Project Area superimposed with the Project Boundary and the general location and arrangement of screening, buffer zones, fencing, tree

preservation, structures, the proposed PV panels, driveways and entrances, wildlife corridors, floodplain, electric lines and overhead utility lines, and connections to the electrical grid, and, in addition, labeled with the distances of structures to the property lines. The intent of the Concept Plan is to be a visual summary of the project. Typical elevations of structures shall be included with the Concept Plan.

4. Development Plan (requirements may be modified by the Zoning Administrator for projects in the P-1 District). The Development Plan, **certified by a licensed design professional registered in the State of Colorado** [MW10] (an architect, engineer, or similar professional), shall include the following:
 - a. A legal description of the subject parcels.
 - b. The Project Area and Solar Photovoltaic Panel Coverage expressed in acres.
 - c. The Project Boundary, property lines, lease lines, Official Street Line, and easements within the Project Area.
 - d. Setback lines.
 - e. General location of driveways, parking and entrances onto streets and accompanying site distance reports for such entrances.
 - f. Locations and dimensions of all existing and proposed buildings and structures, including solar panels, charge regulators, inverters, substations, Battery Energy Storage Facilities, structures over 60 feet in height, connections to the grid, fencing, and dwellings and associated accessory structures,
 - g. Preliminary sketches of structure elevations depicting the general style, size, and exterior construction materials in sufficient detail to exhibit the relative compatibility of the proposed development with the character of the neighborhood.
 - h. Location of exterior lights indicating area of illumination and foot-candles.
 - i. Visual Impact Analysis (not applicable in P-1 and may be waived by the Zoning Administrator for Medium-scale solar facilities). A visual impact analysis demonstrating project siting and proposed mitigation, if necessary, so that the solar facility minimizes impact on the visual character of the surrounding area.
 - j. The applicant shall provide accurate, to scale, photographic simulations showing the relationship of the solar facility and its associated amenities and development to its surroundings. The photographic simulations shall show such views of solar structures from locations such as property lines and roadways, as deemed necessary by the County to assess the visual impact of the solar facility.
 - k. The total number of simulations and the perspectives from which they are prepared shall be established by the Zoning Administrator after the pre-application meeting.
5. Environment Impact Assessment (may be waived by the Zoning Administrator for the P-1 District or for Medium-scale solar facilities).
 - a. Environmental inventory and impact statement regarding any site and viewshed impacts, including direct and indirect impacts to national or state forests and grasslands, national or state parks, County or city parks, wildlife management areas,

conservation easements, recreational areas, or any known historic or cultural resources within three (3) miles of the Project Boundary.

- b. Wetlands, rivers and streams, and floodplains shall be inventoried, delineated, and mapped in order to provide baseline data for the evaluation of the current proposal and to determination of satisfactory decommissioning as required in this Chapter. The inventory and mapping of floodplain shall not be construed to allow development within regulatory flood plain areas without a flood plain development permit.
6. Covenants. A copy of any subdivision and utility covenants and restrictions associated with the site.
7. A draft Traffic Study^[MW11] (may be waived by the Zoning Administrator for the P-1 District or for Medium-scale solar facilities).
 - a. Information about the proposed project's traffic impacts, modeling both the construction and decommissioning processes, to include:
 - i. The time of day that transport will occur;
 - ii. A map showing the desired primary and secondary routes on the Pueblo Network;
 - iii. Characteristics of the loaded vehicles, including:
 - 1) Length, height, width, curb weight;
 - 2) Maximum load capacity;
 - 3) Number of axles, including trailers;
 - 4) Distance between axles; and
 - 5) Vehicle registration plates.
 - iv. The number of vehicles transporting goods;
 - v. The frequency of vehicle arrival at the site; and
 - vi. The number of drivers the project will employ.
 - b. The haul route(s) must be provided and approved for construction impacts.
 - c. After review of the application's traffic impact information, the County may require a full traffic study to be accepted by an engineer approved by the County.
8. Construction Schedule. An estimated construction schedule.
9. A draft Grading Plan that limits grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms. The Plan shall include:
 - a. Existing and proposed contours;
 - b. Locations and amount of topsoil to be stripped and stockpiled onsite (if any);
 - c. Percent of the site to be graded;
 - d. An earthwork balance achieved on-site with no import or export of soil; and
 - e. Indicate natural flow patterns in drainage design and amount of impervious surface.

10. A preliminary drainage report prepared by an engineer licensed in the State of Colorado.

11. A draft Screening and Vegetation Plan to include:

- a. Ground cover species.
- b. All screening and buffering materials, type of landscaping, and elevations.
- c. Locations of wildlife corridors.
- d. Maintenance requirements for screening and ground cover.

12. A draft Decommissioning and Reclamation Plan. A detailed decommissioning and reclamation plan, certified by a licensed design professional registered in the State of Colorado, which shall include the following:

- a. The anticipated life of the project.
- b. The estimated decommissioning and reclamation cost in current dollars. The applicant shall provide a cost estimate for the decommissioning and restoration of the facility that shall be prepared by a professional engineer or contractor who has expertise in the removal of the solar facility.
- c. The method for estimating the cost. The estimate shall explicitly detail the cost without any reduction for salvage value.
- d. This estimate shall be reviewed by a third-party as approved by the County.
- e. The method of ensuring that funds will be available for decommissioning and removal. The amount of funds required shall be the full amount of the estimated decommissioning cost provided as cash escrow, surety bond, or other security approved by the County. The surety shall be updated when the decommissioning cost estimate is updated. The estimated cost of decommissioning shall be guaranteed by the deposit of funds in an amount equal to the estimated cost in an escrow account at a federally insured financial institution approved by the County unless otherwise provided for in subsection 5 below.
 - i. The applicant shall post a financial security before any building permit is issued to allow construction of the solar facility.
 - ii. The escrow account agreement shall prohibit the release of the escrow funds without the written consent of the County. The County shall consent to the release of the escrow funds upon on the owner's or occupant's compliance with the approved decommissioning plan. The County may approve the partial release of escrow funds as portions of the approved decommissioning plan are performed.
 - iii. The amount of funds required to be deposited in the escrow account shall be the full amount of the estimated decommissioning cost without regard to the possibility of salvage value.
 - iv. The County may approve alternative methods to secure the availability of funds to pay for the decommissioning of a utility-scale solar facility, such as a performance bond, letter of credit, or other security approved by the County.
- f. The method that the estimated decommissioning cost will be kept current. The Solar

Facility owner or operator shall engage a qualified individual to recalculate the estimated cost of decommissioning at an interval of every five years. If the recalculated estimated cost of decommissioning exceeds the original estimated cost of decommissioning by ten percent (10%), then the owner or operator shall adjust their fiscal security to meet the new cost estimate. If the recalculated estimated cost of decommissioning is less than ninety percent (90%) of the original estimated cost of decommissioning, then the County may approve reducing the amount of the security to the recalculated estimate of decommissioning cost.

- g. The method for decommissioning the facility and restoring the site.
 - i. Solar facilities that have reached the end of their useful life or have not been in active and continuous service for a period of six (6) months, shall be decommissioned at the Solar Facility owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the County may require evidentiary support that a longer repair period is necessary.
 - ii. The Solar Facility owner or operator shall notify the Zoning Administrator in writing of the proposed date of discontinued operations and plans for removal.
 - iii. Decommissioning shall include removal of anything above or below-ground that was constructed or erected as part of the Solar Facility to include structures, buildings, equipment, cabling and wiring, solar electric systems, electrical components, security barriers, driveways, entrances, foundations, pilings, and any other associated facilities, including all material and equipment located underground.
 - iv. Once such removal is completed, any agricultural ground upon which the Solar Facility was located shall be again tillable and suitable for agricultural or forestall uses.
 - v. Decommissioning shall also include restoration of the Project Area to pre-development conditions, including pre-development grading, to include reseedling/replanting the site to restore it to as natural a pre-development condition as possible as indicated on the Development Plan and other application materials. Re-grading and re-seeding/replanting shall be initiated within a six-month period of removal of equipment. The site shall be restored within 12 months of removal of solar facilities.
 - vi. Any exception to site restoration, such as leaving driveways, entrances, or landscaping in place, or substituting plantings, shall be requested by the landowner in writing, and this request must be approved by the BOCC.
 - vii. Hazardous material from the property shall be disposed of in accordance with federal and state law.
- 13. Additional information may be required as determined by the Zoning Administrator, such as a scaled elevation view of the property and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed project from potentially sensitive locations as deemed necessary by the Zoning Administrator to assess the visual impact of the project, landscaping and screening plan, coverage map,

and additional information that may be necessary for a technical review of the proposal.

14. Eighteen sets (11"× 17" or larger), one reduced copy (8½"× 11") and one electronic copy of the concept plan, including elevations and landscape plans as required.

F. Minimum Development and Performance Standards.

1. A facility shall be constructed and maintained in substantial compliance with the approved Concept Plan and Development Plan.
2. Locational and Dimensional Standards for Solar Facilities. The locational and dimensional standards indicated below for solar facilities are intended to mitigate the adverse effects of such uses on adjoining property owners [PF12] and the surrounding area.
 - a. The minimum Project Area of a Utility-Scale Solar Facility shall be more than 10 acres, and the maximum Project Area shall be no more than 2,500 acres (no size limit in P-1).
 - b. The minimum area of a Medium-Scale Solar Facility shall be one (1) acre and the maximum area shall be ten (10) acres.
 - c. The percentage of Solar Photovoltaic Panel Coverage in relation to the Project Area is 65%. Requests for higher density may be submitted at the time of application if there is a clear justification. This request is subject to Zoning Administrator approval, but shall not exceed 80% (no limit in P-1). [PF13]
 - d. Solar Facilities shall be located greater than one (1) mile from Development Action Areas. [PF14]
 - e. Solar facilities shall be more than one (1) mile from an existing or permitted solar facility (not applicable for facilities within or adjacent to P-1). [PF15]
 - f. Structures associated with Solar Facilities, to the greatest extent practicable, shall not be located in regulatory flood plains. Such structures shall require an approved flood plain development permit in order to be located in a regulatory flood plain.
3. Setbacks.
 - a. Project Boundary Setbacks. To minimize adverse impacts upon surrounding properties and the community at large, the minimum setback of structures and uses associated with the Solar Facility to exterior parcel lines or the Official Street Line, if applicable, shall be based on the zoning district of the adjacent parcel as indicated below. Such structures and uses include fencing, PV panels, parking areas, and outdoor storage, but do not include landscaping and berming. Project Boundary setbacks shall be:
 - i. 50 feet from commercial and industrial zoned parcels, or
 - ii. 150 feet from all other parcels (unless located within the P-1 District).
 - b. Setbacks from Dwellings. To minimize adverse impacts upon surrounding nearby residential uses, the minimum setback of structures and uses associated with the Solar Facility, including fencing, PV panels, parking areas, and outdoor storage, but not including landscaping and berming, shall be not less than 500 [MW16] feet from

the nearest dwelling existing at the time the Solar Facility was approved by the County to the nearest Solar Facility structure (typically the fencing), unless a reduction in such setback is agreed to in writing by the dwelling owner.

4. Height. The maximum height of the lowest edge of the photovoltaic panels shall be 10 feet and the maximum height of the highest edge of the photovoltaic panels shall be 20 feet as measured from the finished grade. The maximum height of all other structures associated with the Solar Facility shall be 45 feet as measured from the finished grade at the base of the structure to its highest point, including appurtenances, with the exception of substations and electrical power transmission lines. The Board of County Commissioners may approve a greater height based upon the demonstration of a significant need and where the impacts of increased height are mitigated.
5. Screening (requirements may be modified by the Zoning Administrator for projects in the P-1 District). Screening and buffering shall be used to mitigate adverse visual impacts and to provide for compatibility between dissimilar adjoining uses. Screening is required to soften the impacts of substantially block any view of material, equipment, or stored vehicles from any point located on a street or adjoining property adjacent to the site. The required Project Boundary Setbacks and associated Buffer Zone provide a measure of screening by providing increased distance or setbacks from exterior property lines to reduce impacts associated with the Solar Facility. The applicant shall use one or a combination of methods listed in this section, or other comparable methods deemed equivalent by the Zoning Administrator, to satisfy the screening requirements.
 - a. Existing Screening. Existing vegetation, topography, buildings, open space, or other elements located on the site may be considered as part of the required screening.
 - b. Landscaping. Landscaping intended for screening shall consist of a combination of evergreen trees that are 5-6 ft. in height at time of planting and deciduous trees that are 5-6 ft. in height at time of planting. Trees shall be placed on average at 15 ft. on center and be planted in no less than three (3) rows. A list of appropriate plant materials shall be available at the Planning & Development Office.
 - c. Berming. Berms shall generally be constructed with a 3:1 side slope ^[PF17]to rise ratio, 4-6 ft. above the adjacent grade, with a 3 ft. wide top (the wide top is necessary to have a flat area for plantings). The outside edges of the berm shall be sculpted such that there are vertical and horizontal undulations to give variations in appearance. When completed, the berm should not have a uniform appearance.
 - d. Fencing. Fencing intended for screening shall be at least 75 percent visually solid as viewed on any line perpendicular to the fence from adjacent property or a public street^[MW18]. Such fencing may be used in combination with other screening methods but shall not be the primary method. A typical example is the use of wood privacy fencing and landscaping to screen structures such as substations. Depending on the location, ornamental features may be required on the fence. Fencing material shall not include plastic slats.
6. Ground Cover. Ground cover on the site shall be native vegetation, and incorporation of native plant species that require no pesticides, herbicides, and fertilizers or the use of pesticides and fertilizers with low toxicity, persistence, and bioavailability is

recommended.

7. Security Fencing. The Solar Facilities shall be enclosed by security fencing not less than six (6) feet in height. Heights greater than six feet may require a building permit from the Pueblo Regional Building Department and County. Security fencing shall be placed around sections of the facilities, including PV pods, to provide openings between the sections and pods to allow for the movement of migratory animals and other wildlife. Security fencing shall be placed on the interior of the Buffer Zone to be significantly screened from public view.
 - a. A performance bond reflecting the costs of anticipated fence maintenance shall be posted and maintained. Failure to maintain the fence in a good and functional condition will result in revocation of the permit.
 - b. Fencing shall be monitored for buildup of tumbleweeds and other windswept debris and cleared of such as needed. Monitoring and potential clearing of tumbleweeds shall take place at least once between October 1st and November 31st of each year. Tumbleweeds shall be disposed of in a manner as to mitigate seed dispersal.
8. Wildlife corridors. Access corridors for wildlife to navigate through the solar facility shall be identified and shown on the Concept Plan and Development Plan submitted to the County.
9. Style. The design of support buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and surrounding structures[MW19].
10. Exterior/Outdoor Lighting. Outdoor lighting shall be limited to levels required for safety and security. Facilities need to comply with section 17.120.180. All lights shall be shielded.
11. Signs. The County's typical stipulation allowing a sign with a sign permit in accordance with Chapter 17.116 of these regulations.
12. Sound. No sound resulting from the industrial or business activity shall be measurable at the outer boundaries of the parcel.
13. Vibrations. No vibrations resulting from the industrial or business activity shall be measurable at the outer boundaries of the parcel.
14. Odors. No odors resulting from the industrial or business activity shall be discernible at the outer boundaries of the parcel.
15. Gasses. No noxious gases resulting from the activity shall be discernible beyond the outer boundaries of the parcel.
16. Smoke. No observable smoke shall be emitted.
17. Dust. No dust or dirt resulting from the activity shall be discernible beyond the outer boundaries of the parcel.
18. Glare. No glare shall be discernible beyond the outer boundaries of parcel.

19. Heat. No heat shall be discernible beyond the outer boundaries of parcel.
20. Ingress/Egress. Permanent access roads and parking areas will be stabilized with gravel, asphalt, or concrete to minimize dust and impacts to adjacent properties.
21. Water Supply. After completion of construction, water may be purchased for the purpose of washing panels if the Applicant and the Water Provider enter into a mutually acceptable agreement.
22. Coordination of local emergency services. Applicants for new solar facilities shall coordinate with the County's emergency services staff to provide materials, education and/or training to the departments serving the property with emergency services in how to safely respond to on-site emergencies.
23. At all times, the Solar Facility shall comply with any other condition added or required by the Board of County Commissioners as part of a 1041 Permit approval.
24. Compliance with other local, state, and federal regulations. During the term of this permit, operation shall fully comply with all applicable local regulations, as well as all applicable state and federal regulations, including but not limited to, the U.S. Environmental Protection Agency (EPA), Federal Aviation Administration ("FAA"), State Corporation Commission ("SCC") or equivalent, Colorado Department of Public Health and Environment (CDPHE), Colorado Department of Agriculture, the Colorado Parks and Wildlife (CPW), and all the applicable regulations of any other agencies.
25. If the Solar Facility does not receive a building permit within 24 months of approval of the 1041 Permit, the Permit shall be terminated[MW20].
26. Construction timeline. Unless allowed by a phasing plan approved by the Board, the Solar Facility shall be installed in accordance with the Development Plan within three (3) years of approval of the permit. Extensions may be granted by the BOCC on a case-by-case basis as deemed necessary or appropriate.
27. Traffic. The applicant shall comply with all Colorado Department of Transportation (CDOT) and/or Pueblo County Department of Engineering and Public Works recommendations for traffic management during construction and decommissioning of the Solar Facility.
 - a. Access Permit: Pursuant to Chapter 12.04, Article 7 of the Pueblo County Code, the applicant shall apply to the Pueblo County Department of Engineering and Public Works for an Access Permit for their proposed access locations onto any Pueblo County public road. All conditions of said access permit shall be complied with prior to commencing construction. Final approval of the access permit shall be deemed as compliance with this condition.
 - b. The roads shall be maintained in a safe operating condition during the construction phase and be brought back to the original condition, or improved, upon completion of the construction and decommissioning phases, unless, as determined by the Director of Engineering and Public Works, extensive damage has occurred, in which case immediate emergency repairs must be made.

- i. Gravel road: prior to the construction phase of the facility the applicant shall dust treat the entire length of x road (road segment description) and pay for the application (labor and material) of dust suppression materials. The applicant shall be required to re-gravel all identified roads if traffic causes substantial loss of existing gravel. The County and the applicant shall agree on the existing state of x road(s) prior to the start of construction. After construction activities have ceased x road(s) shall be evaluated for loss of gravel as measured against the condition prior to construction activity. If required, the applicant shall re-gravel the entire length of x road (road segment description) to Pueblo County road with 4 inches of class 6 base course.
 - ii. Paved road: the applicant shall be responsible for damage to any Pueblo County public roads caused by their construction traffic. The County and the applicant shall agree on the existing state of Pueblo County public road(s) as documented by video taken by a representative from the Department of Engineering and Public Works (PW) and making note of any existing damage prior to the beginning of construction activities. The route shall be monitored during construction activities and the applicant shall make repairs caused by construction traffic at the direction of the Director of Engineering and Public Works. Within two (2) weeks after construction activities have ceased the applicant shall contact this department and request that the video be scheduled to be taken. Any stationing and width measurements before and after shall be performed by the County. The road will be evaluated for damage as measured against the condition prior to construction activity. The applicant shall then make any necessary repairs to the road, as determined by PW, such that it will be in a similar state as existed prior to construction activities.
28. Maintenance. The Solar Facility shall be continually maintained and kept in good repair and shall include, but not be limited to, fencing, ground cover, weed mitigation, screening, lighting, driveways, entrances, and structures. The Solar Facility operator or owner shall be responsible for the cost of maintaining the Solar Facility ~~and the cost of repairing damage to public and private roads occurring because of construction and operation~~. Failure to maintain the Solar Facility may result in revocation of the 1041 Permit and the facility's decommissioning. The operator shall notify the County prior to application of any pesticides or fertilizers. The County reserves the right to request soil and water testing.
29. Inspections. The Applicant will allow designated County representatives or employees access to the facility for inspection purposes with 24-hour notice. The Applicant shall reimburse the County its costs in obtaining an independent third-party to conduct inspections required by local and state laws and regulations.
30. The owner and operator shall give the County written notice of any proposed change in ownership or operator which shall be approved by the BOCC to continue operating under the 1041 Permit in conformance with Chapter 17.148 Administrative Regulations, Article 4. Permits, Section 17.148.330 Transfer of Permits.

G. Special provisions for battery facilities. In addition to the above general provisions,

application requirements, and development and performance standards, the following additional requirements shall be met for the approval of a Battery Energy Storage Facility:

1. Battery Energy Storage Facilities shall be constructed, maintained, and operated in accordance with national industry standards and regulations including the most current adopted edition of the National Electrical Code, International Fire Code of the International Code Council, and the National Fire Protection Association Fire Code. The batteries will be NFPA (National Fire Protection Agency) compliant. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control so that as technology advances, updated technology may be used.
2. Battery cells shall be placed in a Battery Energy Storage System (“BESS”) with a Battery Management System (“BMS”). The BESS shall provide a secondary layer of physical containment to the batteries and be equipped with cooling, ventilation, and fire suppression systems. Each individual battery shall have 24/7 automated fire detection technology built in. The BMS shall monitor individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and be able to shut down the system before Thermal Runaway takes place.
3. The Battery Energy Storage System will be placed on an appropriate foundation and screened with vegetation outside of environmentally sensitive areas.
4. Access to all batteries and electrical switchgear shall be from the exterior for normal operation and maintenance. Access to the container interior shall not be permitted while the system is in operation except for safety personnel and first responders.
5. Qualifications and experience from selected developers and integrators shall be provided including disclosure of fires or other hazards at facilities.
6. Safety testing and failure modes analysis data from selected developers and manufacturers shall be provided.
7. The latest applicable product certifications shall be provided.
8. The Solar Facility operator or owner shall be responsible for any environmental remediation required by the county^[d21]^[SJ22] or the state and the costs of such remediation. All remediation shall be completed in a timely manner.
9. Battery storage shall be developed in collaboration with technical experts and first responders to utilize technology-appropriate best practices for safe energy storage systems including, but not limited to, the following:
 - a. Adequate access/egress for the first responders;
 - b. Adequate facility signage (on battery chemistry and person to contact);
 - c. Accessible Safety Data Sheets;
 - d. System-specific emergency response plans;
 - e. Training for first responders on the type of system, potential hazards and risks, and

system-specific emergency response plans;

- f. Adequate water [d23][SJ24]sources and fire suppression appliances for the fire fighters if required in the emergency response plans;
- g. Signage on Hazardous Materials present in the vicinity;
- h. Emergency lighting;
- i. Separate battery modules to better isolate a failed battery;
- j. Sufficient disconnect and shutdown capability including a master kill switch to disable ~~and discharge batteries;~~
- k. System-appropriate sensors and alarms;
- l. Air ventilation and fire suppression systems;
- m. Drainage for water runoff; and
- n. Other practices as recommended by experts or local first responders.
- o. The Solar Facility operator or owner shall conduct regular on-site inspections of the battery units and submit a written report to the Zoning Administrator on their condition, at least once every six (6) months.

H. Special provisions for substations. In addition to the above general provisions, application requirements, and development and performance standards, the following additional requirements shall be met for the approval of a substation:

- 1. Siting. Substations located within the Solar Facility shall be located in accordance with the Concept and Development Plans.
- 2. Term. Substations included as part of the Solar Facility may have a life longer than that of the remainder of the Solar Facility and may continue under the 1041 Permit as part of this application approval.

I. Decommissioning and Reclamation. The following requirements shall be met for decommissioning the Solar Facility and reclamation of the site.

- 1. Solar facilities that have reached the end of their useful life or have not been in active and continuous service for a period of six (6) months, shall be decommissioned at the Solar Facility owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the County may require evidentiary support that a longer repair period is necessary.
- 2. If the Solar Facility is to be decommissioned, the Solar Facility owner or operator shall notify the Zoning Administrator in writing of the proposed date of discontinued operations and plans for removal.
- 3. Decommissioning shall be performed in compliance with the approved Decommissioning Plan. The BOCC may approve any appropriate amendments to or modifications of the Decommissioning Plan.
- 4. Decommissioning shall include removal of anything above or below-ground that was

constructed or erected as part of the Solar Facility to include structures, buildings, equipment, cabling and wiring, solar electric systems, electrical components, security barriers, driveways, entrances, foundations, pilings, and any other associated facilities, including all material and equipment located underground.

5. Once such removal is completed, any agricultural ground upon which the Solar Facility was located shall be again tillable and suitable for agricultural or forestall uses.
6. Decommissioning shall also include restoration of the Project Area to pre-development conditions, including pre-development grading, and to include grading and re-seeding the site to restore it to as natural a pre-development condition as indicated on the Development Plan and other application materials. Re-grading and re-seeding or replanting shall be initiated within a six-month period of removal of equipment. The site shall be re-graded and re-seeded or replanted within 12 months of removal of solar facilities.
7. Any exception to site restoration, such as leaving driveways, entrances, or landscaping in place, or substituting plantings, shall be requested by the landowner in writing, and this request must be approved by the BOCC.
8. Hazardous material from the property shall be disposed of in accordance with federal and state law.
 - a. The County shall consent to the release of funds upon compliance with the approved decommissioning plan. The County may approve the partial release of funds as portions of the approved decommissioning plan are performed.
 - b. If the owner or operator of the solar facility fails to remove the installation in accordance with the requirements of this permit or within the proposed date of decommissioning, the County may collect the financial security and the County or hired third party may enter the property to physically remove the installation.

J. General Conditions.

1. Site Plan Requirements. In addition to all Colorado site plan requirements and site plan requirements of the Zoning Administrator, the Applicant shall provide the following plans for review and approval for the Solar Facility prior to the issuance of a building permit:
 - a. Construction Management Plan. The Applicant shall prepare a “Construction Management Plan” for each applicable site plan for the Solar Facility, and each plan shall address the following:
 - i. Traffic control methods (in coordination with the Colorado Department of Transportation [CDOT] and County Public Works prior to initiation of construction):
 - 1) Lane closures,
 - 2) Signage, and
 - 3) Flagging procedures.

- ii. Site access planning. Directing employee and delivery traffic to minimize conflicts with local traffic.
 - iii. Site security. The Applicant shall implement security measures prior to the commencement of construction of Solar Facilities on the Project Site.
 - iv. Lighting. During construction of the Solar Facility, any temporary construction lighting shall be positioned downward, inward, and shielded to eliminate glare from all adjacent properties. Emergency and/or safety lighting shall be exempt from this construction lighting condition.
 - v. Water Supply. In the event that on-site wells are used during construction of the solar energy facility, the Applicant shall prepare and submit for review to the County hydrogeologic information necessary for the County to determine the potential impact to pre-existing users for the same aquifer proposed to be used for the solar energy facility and a plan to mitigate impacts to pre-existing users within the area of impact of the Project. If the County, in consultation with the Department of Environmental Quality, determines that the installation of a well will not adversely affect existing users, the Applicant may proceed with well construction in compliance with approval by the Department of Environmental Quality. At the end of the construction of the solar energy facility, the well shall not thereafter be used except only for personal toilet and lavatory facilities as required by the Uniform Statewide Building Code for operations and maintenance buildings.
- b. Construction Mitigation Plan. The Applicant shall prepare a "Construction Mitigation Plan" for each applicable site plan for the Solar Facility, and each plan shall address the effective mitigation of dust, burning operations, hours of construction activity, access and road improvements, and handling of general construction complaints as set forth and described in the application materials and to the satisfaction of the Zoning Administrator. Damage to public roads related to construction activities shall be repaired as soon as possible and not postponed until construction completion. The Applicant shall provide written notice to both the Zoning Administrator and the Director of Engineering and Public Works of the plans for making such repairs, including time within which repairs will be commenced and completed, within thirty (30) days of any written notice received from the Zoning Administrator.
 - i. Driving of posts shall be limited to 7:00 am to 6:00 pm, Monday through Saturday. Driving of posts shall be prohibited on state and federal holidays.
 - ii. Other construction activity on-site shall be permitted Monday through Saturday, and in accordance with the provisions of the County's Noise Ordinance.
 - iii. During construction, the setbacks may be used for staging of materials and parking. No material and equipment laydown area, construction staging area, or construction trailer shall be located within 200 feet of any property containing a residential dwelling.
 - iv. Construction lighting shall be minimized and shall be directed downward.
- c. Traffic Study. The Applicant will submit a final Traffic Study for review and

approval if required by the Zoning Administrator prior to the commencement of any construction activities.

- d. Grading Plan. The Applicant will submit a final Grading Plan for review and approval by the Zoning Administrator prior to the commencement of any construction activities. A bond or other security will be posted for the grading operations. The Project shall be constructed in compliance with the Grading Plan. The grading plan shall:
- i. Clearly show existing and proposed contours at no greater than five-foot (5 ft.) contours;
 - ii. Note the locations and amount of topsoil to be removed (if any) and the percent of the site to be graded;
 - iii. Limit grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms;
 - iv. An earthwork balance will be achieved on-site with no import or export of soil;
 - v. In areas proposed to be permanent access roads which will receive gravel or in any areas where more than a few inches of cut are required, topsoil will first be stripped and stockpiled on-site to be used to increase the fertility of areas intended to be seeded;
 - vi. Take advantage of natural flow patterns in drainage design and keep the amount of impervious surface as low as possible to reduce storm water storage needs.
 - vii. Provide for the installation of all stormwater and erosion and sediment control infrastructure at the outset of the project to ensure protection of water quality. Once this infrastructure is complete and approved by the County, no more than 50 percent of the land disturbance areas as reflected on the Site Plan shall be disturbed without soil stabilization at any one time. Stabilization, for purposes of erosion and sediment control, shall mean the application of seed and straw to disturbed areas, which shall be determined by the County.
 - viii. Excavation permit (if a road is cut): The applicant is required to apply for an excavation permit with the PW department for structures to cross under road(s).
- e. Erosion and Sediment Control Plan. The County will have a third-party review with corrections completed prior to County review and approval. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan. An E&S bond (or other security) will be posted for the construction portion of the project.
- f. Stormwater Management Plan. The County will have a third-party review with corrections completed prior to County review and approval. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan. A storm water control bond (or other security) will be posted for the project for both construction and post construction as applicable and determined by the Zoning Administrator.

- i. Pueblo County stormwater permit (if located within Pueblo County's MS4 boundary): prior to applying for a building permit or access permit the applicant shall apply for and obtain approval of a Pueblo County application for stormwater construction permit.
 - ii. State construction stormwater permit: prior to applying for a building permit or access permit the applicant shall submit to the department of engineering and public works a copy of the approved Colorado Department of Public Health and Environment (CDPHE) storm water permit and stormwater management plan.
 - iii. Drainage report: prior to the construction phase and as a condition of the access permit the applicant shall submit a final drainage report prepared by a professional engineer licensed to practice in the state of Colorado for approval by this department.
- g. Screening and Vegetation Plan. The applicant will submit a final Screening and Vegetation Plan for review and approval by the Zoning Administrator.
 - i. The plan shall include native species and pollinators, as identified in Subsections ii and ii below, along with the overall plant density and the density of individual phases or other designated segments/pods. The owner or operator shall construct, maintain, and operate the facility in compliance with the approved plan. ~~A separate security shall be posted for the ongoing maintenance of the project's land cover and vegetative buffers in an amount deemed sufficient by the Zoning Administrator.~~ Failure to maintain the landscaping in accordance with the landscape maintenance plan may result in the issuance of a notice of violation by the Zoning Administrator. The applicant (or the operator) shall promptly communicate with the Zoning Administrator within 30 days of the date of the notice of violation and submit a plan in writing satisfactory to the Zoning Administrator to remedy such violation no later than 180 days after the date of the notice of violation. Failure to remedy the violation before the end of the 180-day cure period, as feasible based on seasonal constraints, may result in revocation of the permit.
 - ii. Ground cover shall be native vegetation where compatible with site conditions and, in all cases, shall be approved by the Zoning Administrator.
 - iii. Screening vegetation shall include pollinator plants where compatible with site conditions and, in all cases, shall be approved by the Zoning Administrator.
 - iv. Only EPA approved herbicides shall be used for vegetative and weed control at the solar energy facility by a licensed applicator. No herbicides shall be used within 150 feet of the location of an approved ground water well. The applicant shall submit an herbicide land application plan prior to approval of the certificate of occupancy (or equivalent). The plan shall specify the type of herbicides to be used, the frequency of land application, the identification of approved groundwater wells, wetlands, streams, and the distances from land application areas to features such as wells, wetlands, streams, and other bodies

of water. The operator shall notify the county prior to application of pesticides and fertilizers. The county reserves the right to request soil and water testing.

- v. **Revegetation Bond.** The disturbed area shall be any portion of the project area where any vegetative cover or topsoil is removed and these areas shall be clearly shown on a map, clearly showing: all disturbed areas, the acreage calculations for each area, and the total disturbed area acreage. The plant density shall also be noted per the approved Screening and Vegetation Plan. A bond or other form of security agreeable to Pueblo County shall be posted for the revegetation and stabilization in an amount equivalent to \$3500.00 per disturbed acre. Upon achieving final stabilization, as defined in the Colorado Department of Public Health and the Environment (CDPHE) General Permit Number COR-400000 for Stormwater Discharges Associated with Construction Activity, and subject to concurrence of the Pueblo County Department of Engineering and Public Works; the bond will be released.^[PF25]
- h. **Decommissioning and Reclamation Plan.** The applicant will submit a final Decommissioning and Reclamation Plan, certified by a licensed design professional registered in the State of Colorado, in accordance with Zoning Regulations for review and approval by the Zoning Administrator.

August 5, 2021

Planning Department
Attention: Chairwoman Hatton & Planning Commissioners
Electronically transmitted to: planning@pueblocounty.us

Re: Opposition to the Proposed Amendments to the Pueblo Regional Development Plan (Comprehensive Plan) and Pueblo County Code (Zoning Ordinance) Regarding Solar Energy Facilities

Dear Chairwoman Hatton and the Pueblo County Planning Commissioners,

As an academic researcher who has studied ecosystems and Photovoltaic (PV) solar facilities for the past decade, it is my opinion the Pueblo County Planning Commissioners should defeat this proposed ordinance. Instead, County Planning Commissioners should have a robust stakeholder engagement process with industry experts, scientists, and environmental organizations to study the facts and find the right solution for Pueblo County.

The amended ordinance is unreasonably restrictive to solar development and threatens the future of solar energy development in the County. For instance, this overly restrictive ordinance seeks to mitigate harms by solar projects for which there is little-to-no evidence such harms would take place. Specifically, section F.19 of the Amendments to the Zoning Ordinance states, *"Heat. No heat shall be discernible beyond the outer boundaries of parcel."*

Moreover, the inclusion of disproportionately large setback requirements implies that PV solar facilities will raise ambient air temperatures at surrounding properties. In my professional opinion and through studies I have conducted, **solar projects will not have an impact on temperatures outside of the project boundary** when developers maintain vegetation, either through regrowth beneath the solar arrays or landscape buffering at the perimeter. To be clear, I have studied PV solar facilities in Arizona, Colorado, Oregon, and West Virginia, and we have not documented discernable heat beyond the PV solar facility boundaries when the developer has retained existing vegetation or revegetated a site. As such, the proposed ordinance is not based on facts, but rather makes inference at odds with scientific findings.

The restrictions proposed here are not applied to other County land uses. I find it odd that PV solar facilities, which produce little-to-no issues around odors, gasses, smoke, vibrations, dust, sound, etc., would be singled out when other potential land uses or development will bring several of these very challenges. From actual measurements and real-world practice, we know this to be the case.

Ultimately, this overly restrictive ordinance ignores the broader ecosystem benefits that responsibly-developed photovoltaic solar facilities can generate. **Please defeat this proposed ordinance and instead have a robust stakeholder engagement process with environmentalists and industry experts to find the right solution for Pueblo County.**

Thank you,



Greg Barron-Gafford
Professor; School of Geography, Development, & Environment
University of Arizona; 520-548-0388; gregbg@arizona.edu



Enel Green Power North America, Inc.

100 Brickstone Square, Suite 300 – Andover, MA 01810 – USA
T +1 978 681 1900 – F +1 978 681 7727

August 10, 2021

VIA EMAIL (planning@pueblocounty.us)

Pueblo County Planning Commission
c/o Planning and Development Department
229 W 12th Street
Pueblo, CO 81003

Subject: Pueblo County Proposed County Solar Ordinance Draft – Planning Commission Work Session – August 18th, 2021

Pueblo County Planning Commission Members,

Thank you for the opportunity to provide comments on the proposed Pueblo County Code amendment to add Section 17.168.050 Solar Facilities. Enel Green Power North America is in the early stages of developing several solar facilities in Pueblo County including the recent submittal of applications for special exceptions for solar meteorological stations for the Luminary Highlands Solar Project and the Arroyo Solar Project.

We fully support the County's effort to add more comprehensive siting regulations for solar facilities to the Code because that commitment can greatly improve the County's ability to benefit from high-quality, environmentally appropriate projects. Given that mutually beneficial goal, there are items included in the proposed amendment that we believe are not feasible and may unintentionally inhibit utility scale solar development in Pueblo County. It is noteworthy that the proposed regulations on solar facilities are significantly more restrictive than the regulations for any other use in the County, including uses already permitted through special exceptions in the same zoning districts, even when those already-allowed potential uses have a much higher potential for impacts on the surrounding developments. The addition of many of these restrictions is unnecessary since the County Code, 1041 regulations, and state and federal law already address the apparent concerns. The addition of such extensive and effectively redundant regulations increases the burden on Planning staff to evaluate solar facility applications and increases the burden on any applicant, without corresponding benefit. Following are some examples:



- **Solar panel coverage limits of 65%** - This restriction does not effectively address any impact since there is very little impermeable surface in most solar facilities. The likely result would be to spread the panels over a much larger geographic area, increasing costs, including the impact of land available for other uses, and decreasing benefits to landowners.
- **Size limitation of facility** – There is no benefit to imposing an overall limit of a solar facility to 2,500 acres. Many successful and well-received solar facilities are greater than 2,500 acres. Solar facility impacts should be evaluated through the special exception process and mitigated on a case-by-case basis rather than mandating one-size-fits-all criteria.
- **Separation requirement** - A requirement to construct solar facilities 1 mile from each other is not logical nor consistent with the Berkley Group comment in its June 11, 2021 memo that most solar facilities are sited within 1 mile of transmission infrastructure. It is also inconsistent with the Comprehensive Plan goal to minimize scattered development on agricultural land. Imposing this limitation would not serve to decrease impacts of solar facilities and may actually increase impacts as transmission lines would need to run above ground for longer distances to reach such scattered projects.
- **Multiple bonds** – Most of the bond requirements are unnecessary and unduly restrictive. Revegetation after construction is regulated by state and federal law pursuant to the Clean Water Act. Other bonds such as a fencing bond are simply unprecedented in the County. Imposing multiple layers of bonds at high dollar-value levels without considering a project's characteristics would send a message that the County is a difficult place to do business, potentially diverting business opportunities and solar facilities to other neighboring counties.
- **Duplication, confusion** - Many of the items in the proposed regulations are listed multiple times in different sections, and many subsections are redundant. We suggest merging these together (examples include Traffic Study, Construction Management Plan, and Construction Mitigation Plan; also, the Erosion and Sediment Control Plan is typically in the Stormwater Management Plan). Otherwise, having duplicative provisions can lead to confusion, ambiguity, and mistakes, costing staff and applicants time and effort. Other items are unclear or appear to reference agencies or laws in different states.

In an effort to provide more extensive comments, we have attached a redline of the proposed text amendment with our proposed edits and comments. The redline may at first appear to propose a significant number of changes; however, our proposed changes primarily remove duplication to focus on providing clarity and reasonable regulation to protect participating landowner partners, their neighbors, and the larger community.



While we understand that many communities are resistant to hearing from industry, we review and develop projects in compliance with hundreds of solar regulations a year. We understand through experience the regulations that are feasible and problematic and, most of all, that everyone benefits from clear regulations that outline how the County and applicant will work together on the development, approval, construction and operation of a solar facility. Predictability is a key factor in developing solar facilities in Pueblo County.

We thank you for your time and consideration and welcome the opportunity to work with the County in development of comprehensive solar regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Hannifan".

Jack Hannifan
Development Manager
Enel Green Power North America, Inc.
913-216-3191

Enclosure

17.168.050 Solar Facilities.

Section contents:

- A. Purpose.
- B. Intent.
- C. Zoning districts.
- D. General Provisions.
- E. Application Requirements.
- F. Minimum Development and Performance Standards.
- G. Special provisions for Battery Storage.
- H. Special provisions for Substations.
- I. Decommissioning and Reclamation.
- J. General Conditions.

In addition to other requirements of the Pueblo County Code and 1041 Permit process, applications for a large scale solar facility (i.e., medium-scale and utility-scale) shall be subject to the following provisions:

- A. Purpose. The purpose of these application requirements and performance standards regarding Solar Facilities is to establish requirements for construction and operation of solar facilities (excluding small-scale solar facilities) and to provide standards for the placement, design, construction, monitoring, modification, and removal of such facilities; address public safety, minimize impacts on scenic, natural, and historic resources; and provide adequate financial assurance for decommissioning.
- B. Intent. The regulations set forth herein are intended to provide a consolidated list of requirements for the proper consideration of these project applications. If regulations in other sections are inconsistent with those set forth herein, then the more restrictive requirement shall prevail. To the extent possible, all other zoning and land development requirements are consistent with those presented in this section.
- C. Zoning districts.
 - 1. Solar facilities shall be subject to a 1041 Permit as a primary use in zoning districts A-1 and P-1.
 - 2. Solar facilities ~~should~~ are encouraged to locate on brownfields, County-owned capped landfills, or near existing industrial uses, where feasible ~~but not within Development Action Areas~~.
 - 3. Battery facilities shall be subject to a 1041 Permit. They shall be permitted as
 - a. An ancillary use to solar facilities in A-1 and P-1 zoning districts.
 - b. A primary use adjacent to other energy generation facilities and substations.
- D. General Provisions.
 - 1. Term of Solar Facilities. A 1041 Permit for a Solar Facility may be approved for the proposed operational life of a facility, but not to exceed 40 years. The permit may be reviewed after 20 years with specific focus on the project's status and conditions. This review may be initiated by either the Applicant or the County. The Permit may also be

renewed during this review for an additional period to align with the operational life of the facility. Notwithstanding the foregoing, the substation may continue past the life of the Solar Energy Facility under the 1041 Permit if it will continue to be used for utility purposes.

2. Project Area. The area included in the Development Plan should include the project boundary, solar facility, PV pods, and buffer zones. The Project Area may include multiple parcels and portions of parcels, which may be leased parcels or leased areas of parcels, and, for purposes of this section, the sum of this area shall be the Project Area and the boundaries of this area shall be the Project Boundary. The purpose of the Project Area is to accommodate a single Solar Facility. Furthermore,
 - a. All parcels and portions of parcels within the Project Area, when taken collectively, may or may not form one solid area (e.g., when separated by streets), and may form a collection of areas and some areas may have holes or voids (e.g., when a parcel is not included in the 1041 Permit but is surrounded by properties that are included in the permit). The Project Boundary shall include the boundaries around these holes or voids and shall may also run along streets within the Project Area;
 - b. The area within the Project Area shall be considered a single Solar Facility. However, any portion of the Project Area shall not be more than one-half (1/2) mile from the remainder of the Project Area, or else such portion shall be considered a separate Solar Facility;
 - c. The equipment within a Solar Facility shall include photovoltaic (PV) panels, which are often organized into groupings referred to as PV pods, and may also include charge regulators, inverters, and various accessory uses and structures such as parking areas and fencing. The equipment within Utility-Scale Solar Facilities, but not Small-Scale or Medium-Scale Solar Facilities, may also include substations, which are also referred to as transformers, and Battery Energy Storage Facilities;
 - d. A Buffer Zone within the Project Area shall be established for the purpose of mitigating the effects of the Solar Facility upon surrounding properties and the community at large, and shall be an area reserved for open space, landscaping, or berming, and which shall be located between the Project Boundary or Official Street Line, if applicable, and the required Project Boundary Setback.
3. Pre-application meeting. Schedule a pre-application meeting with the Zoning Administrator to discuss the location, scale, and nature of the proposed use and what will be expected during that process.
4. Comprehensive Plan Review. A review by Planning staff of Solar Facility proposals to determine if their general or approximate location, character and extent are substantially in accord with the Pueblo Regional Development Plan (Comprehensive Plan) or part thereof. This review is to be included in the staff report for the Board of County Commissioners (BOCC) consideration.
5. Neighborhood Meeting (not applicable in P-1). A neighborhood meeting shall be held prior to the public hearing with the BOCC to give the community an opportunity to hear from the applicant and ask questions regarding the proposed project.

Commented [A1]: Often times there are additional phases to a project which fall under the same LLC. In the case of this, and when Phase II would be more than ½ mile away, can the language instead be written to include an amendment to the original 1041 permit?

- a. The applicant shall provide a copy of any letter or notice to the Zoning Administrator prior to sending out to the public to ensure information is complete and correct.
- b. The applicant shall inform in writing: 1) all owners of record of lands located within 1,000 feet of the property as indicated on the **certified list** of such owners provided with the application, 2) the Zoning Administrator on all notified property owners, and 3) the Zoning Administrator of the date, time, and location of the meeting, at least seven but no more than 14 days, in advance of the meeting date.
- c. The date, time, and location of the meeting shall be advertised in the official County newspaper by the applicant, at least seven but no more than **14-45 days**, in advance of the meeting date.
- d. The meeting shall be held within the County at a location open to the public with adequate parking and seating facilities which may accommodate persons with disabilities.
- e. The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant, and provide feedback.
- f. The applicant shall provide to the Zoning Administrator a summary of any input received from members of the public at the meeting and proof of advertisement of the meeting.

Commented [A2]: Please define "certified list". Certified by who?

Commented [A3]: This is an extremely short notice period for the developer to gather information and send out to all landowners for a neighborhood meeting, especially if there are holidays or delivery delays as we have seen during COVID.

E. Application Requirements. A complete 1041 Permit application shall include:

1. Owner Authorization and Information. Documentation of land ownership and/or legal authority to construct all properties within the Project Area.
2. Solar Facility Narrative. A narrative giving a general overview of the Solar Facility, which includes:
 - a. The owner and the operator of the proposed Solar Facility and the applicant,
 - b. The intended utility company to interconnect to the Solar Facility,
 - c. The current uses and physical characteristics of the Project Area and the surrounding area,
 - d. Approximate Rated Capacity of the solar facility project,
 - e. Type and location of interconnection to electrical grid as coordinated and pre-approved with the appurtenant **Publicower** Utility Commission (PUC),
 - f. Approximate number of panels and representative types,
 - g. The Project Area and Solar Photovoltaic Panel Coverage expressed in acres.
 - h. An inventory with description of all proposed structures and uses including Battery Energy Storage Facilities, inverters, substations, and all structures over 60 ft. in height.
 - i. A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not **necessary**.

Commented [A4]: This item is not consistent. Pre-approval should be further defined, and we are not aware of one that would be provided by the Colorado Public Utility Commission. If you are referring to the regional electric entity, WECC, this requirement should be revised to accurately describe your request

Commented [A5]: Interconnection agreements are between the Applicant and the electric entity, in this case, WECC. Many projects do not have final interconnection agreements until close to construction. We request this item be changed to require the project's queue position documentation instead of a copy of an agreement that in most cases will not be available until construction.

3. Concept Plan. In addition to the Development Plan, a Concept Plan of the Project Area consisting of aerial imagery of the Project Area superimposed with the Project Boundary and the ~~general-preliminary~~ location and arrangement of screening, buffer zones, fencing, tree preservation, structures, the proposed PV panels, driveways and entrances, wildlife corridors, floodplain, electric lines and overhead utility lines, and connections to the electrical grid, and, in addition, labeled with the distances of structures to the property lines. The intent of the Concept Plan is to be a visual summary of the project. Typical elevations of structures shall be included with the Concept Plan.

4. Conceptual Development Plan (requirements may be modified by the Zoning Administrator for projects in the P-1 District within one week of conducting the pre-application meeting). The Development Plan, certified by a licensed ~~design~~ professional registered in the State of Colorado (an architect, engineer, or similar professional), shall include the following:

- a. A legal description of the subject parcels.
- b. The Project Area and conceptual Solar Photovoltaic Panel Coverage expressed in acres.
- c. The Project Boundary, property lines, lease lines, Official Street Line, and easements within the Project Area.
- d. Setback lines.
- e. General location of driveways, parking and entrances onto streets and accompanying site distance reports for such entrances.
- f. General ~~Location~~ locations and dimensions of all existing and proposed buildings and structures, including solar panels, charge regulators, inverters, substations, Battery Energy Storage Facilities, structures over 60 feet in height, connections to the grid, fencing, and dwellings and associated accessory structures,
- g. Preliminary sketches of structure elevations depicting the general style, size, and exterior construction materials in sufficient detail to exhibit the relative compatibility of the proposed development with the character of the neighborhood.
- h. Preliminary ~~Location~~ location of exterior lights indicating area of illumination and foot-candles.
- i. Visual Impact Analysis (not applicable in P-1 and may be waived by the Zoning Administrator for Medium-scale solar facilities). A visual impact analysis demonstrating project siting and proposed mitigation, if necessary, so that the solar facility minimizes impact on the visual character of the surrounding area.
 - i. The applicant shall provide accurate, to scale, photographic simulations showing the relationship of the solar facility and its associated amenities and development to its surroundings. The photographic simulations shall show such views of solar structures from locations such as property lines and roadways, as deemed necessary by the County to assess the visual impact of the solar facility.
 - ii. The total number of simulations and the perspectives from which they are

Commented [A6]: The Ordinance as drafted appears to contemplate final plans being submitted at the time of application for building permits. We request edits to make clear that a conceptual site development plan will be provided with the initial application followed by a Final Site Plan with building permit applications that will reflect the final technology and layout of structures within the Project Boundary and in compliance with all setbacks and conditions of approval.

Commented [A7]: Why only in the P-1 zoning district? If some of these items may not be applicable to a particular development, the same would hold true in any zoning district.

Commented [A8]: Please describe or define what a site distance report is.

prepared shall be reasonably established by the Zoning Administrator no later than 30 days after the pre-application meeting.

5. Environment Impact Assessment (may be waived by the Zoning Administrator for the P-1 District or for Medium-scale solar facilities).
 - a. Environmental inventory and impact statement regarding any site and viewshed impacts, including direct and indirect impacts to national or state forests and grasslands, national or state parks, County or city parks, wildlife management areas, conservation easements, recreational areas, or any known historic or cultural resources within three (3) miles of the Project Boundary.
 - b. Wetlands, rivers and streams shall be inventoried, delineated and mapped per the Clean Water Act, 33 U.S.C. §1251 et seq (1972), and floodplains shall be inventoried, ~~delineated,~~ and mapped in order to provide baseline data for the evaluation of the current proposal and to determine ~~cation of~~ satisfactory decommissioning as required in this Chapter. The inventory and mapping of floodplains shall not be construed to allow development within regulatory flood plain areas without a flood-plain development permit.
6. Covenants. A copy of any subdivision and utility covenants and restrictions associated with the site.
7. A draft Traffic Study (may be waived by the Zoning Administrator for the P-1 District or for Medium-scale solar facilities).
 - a. Information about the proposed project's traffic impacts, modeling both the construction and decommissioning processes, to include:
 - i. The time of day that transport will occur;
 - ii. A map showing the desired primary and secondary routes on the Pueblo Network;
 - iii. Characteristics of the loaded vehicles, including:
 - 1) Approximate Length, height, width, curb weight;
 - 2) Maximum load capacity;
 - 3) Number of axles, including trailers;
 - 4) Distance between axles; and
 - 5) Vehicle registration plates.
 - iv. The number of vehicles transporting goods;
 - v. The frequency of vehicle arrival at the site; and
 - vi. The number of drivers the project will employ.
 - ~~b. The haul route(s) must be provided and approved for construction impacts.~~
 - ~~c. After review of the application's traffic impact information, the County may require a full traffic study to be accepted by an engineer approved by the County.~~
8. Construction Schedule. An estimated construction schedule.

Commented [A9]: Superior language for traffic analysis already exists in the Code under mining at Sec. 17.106.070. Solar projects have significantly less impacts (limited during construction) and the plan requirements in that section are clear and tested.

Commented [A10]: What is the "Pueblo Network"?

Commented [A11]: This level of detail is typically not available at an early permitting stage and is instead provided in a road use plan or agreement finalized prior to construction. Could provide very preliminary approximations of characteristics of loaded vehicles and other details at initial permitting stage.

Commented [A12]: Final traffic study is required later in this document.

9. A draft Grading Plan that limits grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms. The Plan shall include:
- Existing and proposed contours;
 - Locations and amount of topsoil to be stripped and stockpiled onsite (if any);
 - Percent of the site to be graded;
 - An earthwork balance achieved on-site with no import or export of soil; and
 - Indicate natural flow patterns in drainage design and amount of impervious surface.
10. A preliminary drainage report prepared by an engineer licensed in the State of Colorado.
11. A draft Screening and Vegetation Plan to include:
- Ground cover species.
 - All screening and buffering materials, type of landscaping, and elevations.
 - Locations of wildlife corridors.
 - Maintenance requirements for screening and ground cover.
12. A draft Decommissioning and Reclamation Plan. A detailed decommissioning and reclamation plan, certified by a licensed ~~design~~ professional registered in the State of Colorado, which shall include the following:
- The anticipated life of the project.
 - The estimated decommissioning and reclamation cost in current dollars. The applicant shall provide a cost estimate for the decommissioning and restoration of the facility that shall be prepared by a professional engineer or contractor who has expertise in the removal of the solar facility.
 - The method for estimating the cost. The estimate shall explicitly detail the cost without any reduction for salvage value.
 - This estimate shall be reviewed by a third-party as approved by the County.
 - The method of ensuring that funds will be available for decommissioning and removal. The amount of funds required shall be the full amount of the estimated decommissioning cost provided as cash escrow, surety bond, irrevocable letter of credit, or other security (i.e. corporate guarantee) approved by the County. The surety shall be updated when the decommissioning cost estimate is updated. The If a bond or escrow is utilized estimated cost of decommissioning shall be guaranteed by the deposit of funds in an amount equal to the estimated cost in an escrow account at a must be with federally insured financial institution approved by the County unless otherwise provided for in subsection 5 below.
 - The applicant shall post a financial security before any building permit is issued to allow construction of the solar facility.
 - The escrow account security agreement shall prohibit the release of the escrow security funds without the written consent of the County. The County shall consent to the release of the escrow funds upon on the owner's or occupant's

Commented [A13]: Note, significantly more onerous reclamation requirements than exist for any other use in the Code today, including mining. Most of this is typically in a decommissioning agreement executed with the County prior to construction. See Sec. 4.3 of the El Paso County Land Development Code for an example. Why not use the existing provisions for 1041 permits at Sec. 17.148.310?

Commented [A14]: Since this is not defined, prefer to strike. Alternatively define what qualifies as a "design professional".

compliance with the approved decommissioning plan. The County may approve the partial release of ~~eserow funds the security~~ as portions of the approved decommissioning plan are performed.

~~iii. The amount of funds required to be deposited in the eserow account shall be the full amount of the estimated decommissioning cost without regard to the possibility of salvage value.~~

~~iv. The County may approve alternative methods to secure the availability of funds to pay for the decommissioning of a utility scale solar facility, such as a performance bond, letter of credit, or other security approved by the County.~~

Commented [A15]: This has already been stated.

- f. The method ~~of that~~ the estimated decommissioning cost will be kept current. The Solar Facility owner or operator shall engage a qualified individual to recalculate the estimated cost of decommissioning at an interval of every five years. The County shall submit notice every five years to the owner or operator of this requirement. If the recalculated estimated cost of decommissioning exceeds the original estimated cost of decommissioning by ten percent (10%), then the owner or operator shall adjust their fiscal security to meet the new cost estimate. If the recalculated estimated cost of decommissioning is less than ninety percent (90%) of the original estimated cost of decommissioning, then the ~~County may approve reducing owner or operator shall adjust~~ the amount of the security to the recalculated estimate of decommissioning cost.

- g. The method for decommissioning the facility and restoring the site.

i. Solar facilities that have reached the end of their useful life or have not been in active and continuous service for a period of ~~six (6) months~~ one (1) year, shall be decommissioned at the Solar Facility owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the County may require evidentiary support that a longer repair period is necessary.

ii. The Solar Facility owner or operator shall notify the Zoning Administrator in writing of the proposed date of discontinued operations and plans for removal.

iii. Decommissioning shall include removal of anything aboveground or up to three feet below-ground that was constructed or erected as part of the Solar Facility to include structures, buildings, equipment, cabling and wiring, solar electric systems, electrical components, security barriers, driveways, entrances, foundations, pilings, and any other associated facilities, including all material and equipment located underground-, except that certain facilities such as the substation, switchyard and interconnection facilities, buildings, structures, driveways and entrances may remain in place upon written request by the landowners.

~~iii-iv.~~

~~iv. Once such removal is completed, any agricultural ground upon which the Solar Facility was located shall be again tillable and suitable for agricultural or forestall uses.~~

Commented [A16]: This item is already covered under the below condition.

v. Decommissioning shall also include restoration of the Project Area to substantially pre-development conditions, including pre-development grading as practicable to appropriate contours, impacted area decompacted as needed and topsoil replaced, to include reseeding/replanting the site to substantially restore it to as natural a pre-development condition except upon landowner request to retain existing grading and/or vegetation as possible as indicated on the Development Plan and other application materials. Re-grading and re-seeding/replanting shall be initiated within a six-month period of removal of equipment. The site shall be restoration activities described herein shall be completed within 12 months of removal of solar facilities. The landowner may request alternate land grading specifications.

vi. Any exception to site restoration, such as leaving driveways, entrances, or landscaping in place, or substituting plantings, shall be requested by the landowner in writing, and this request must be approved by the BOCC.

vii. vi. Hazardous material from the property shall be disposed of in accordance with federal and state law.

13. Additional information may be required as determined by the Zoning Administrator as reasonably necessary for review of the application, such as a scaled elevation view of the property and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed project from potentially sensitive locations as deemed necessary by the Zoning Administrator to assess the visual impact of the project, landscaping and screening plan, coverage map, and additional information that may be necessary for a technical review of the proposal. This request by ZA must be made within 30 days of the pre-application meeting.

14. Eighteen-Five sets (11" x 17" or larger), one reduced copy (8½" x 11") and one electronic copy of the concept plan, including elevations and landscape plans as required.

F. Minimum Development and Performance Standards.

1. A facility shall be constructed and maintained in substantial compliance with the approved Concept-Final Plan and Development Plan.

2. Locational and Dimensional Standards for Solar Facilities. The locational and dimensional standards indicated below for solar facilities are intended to mitigate the adverse effects of such uses on adjoining property owners and the surrounding area.

a. The minimum Project Area of a Utility-Scale Solar Facility shall be more than 10 acres, and the maximum Project Area shall be no more than 2,500 acres (no size limit in P-1).

b. The minimum area of a Medium-Scale Solar Facility shall be one (1) acre and the maximum area shall be ten (10) acres.

c. The percentage of Solar Photovoltaic Panel Coverage in relation to the Project Area is shall not exceed 6575% unless approved by a written. Requests for higher density, not to exceed 90% (no limit in P-1), may be submitted at the time of 1041 application if there is a clear with a description of the justification for approval by the BOCC. This request is subject to Zoning Administrator approval, but shall not

Commented [A17]: Landowners have entered into agreements for the project and should be able to control the final state of their property through such private agreements as already approved by the BOCC for the facility. Moved up to (iii).

Commented [A18]: All of this is already required above.

Commented [A19]: Lacks appropriate standards for approval without significantly more detail. Commonly more density is required in order to limit project footprint and property is still permeable. The density provided presents a significant challenge for solar project development.

~~exceed 80% (no limit in P-1).~~

- d. Solar Facilities shall be located ~~greater than one (1) mile from~~outside Development Action Areas.

- e. ~~Solar facilities shall be more than one (1) mile from an existing or permitted solar facility (not applicable for facilities within or adjacent to P-1).~~

- ~~f.e.~~ Structures associated with Solar Facilities, to the greatest extent practicable, shall not be ~~located-erected~~ in regulatory flood-plains. Such structures ~~shall~~may require an approved flood-plain development permit in order to be located in a regulatory flood-plain in compliance with County floodplain regulations.

Commented [A20]: Request removal of this entirely. What impact justifies a separation requirement? Commonly solar facilities need to locate near transmission facilities so concentration is to be expected.

3. Setbacks.

- a. Project Boundary Setbacks. To minimize adverse impacts upon surrounding properties and the community at large, the minimum setback of structures and uses associated with the Solar Facility ~~to exterior~~ parcel lines exterior to the pProject bBoundary or the Official Street Line, if applicable, shall be based on the zoning district of the adjacent parcel as indicated below unless the property owner provides a written waiver of setback requirements. Such structures and uses include fencing, PV panels, parking areas, and outdoor storage, but do not include landscaping and berming. Project Boundary setbacks shall be:

- i. 50 feet from commercial and industrial zoned parcels, or
- ii. 150 feet from ~~all other~~residential parcels (unless located within the P-1 District).

- b. Setbacks from Dwellings. To minimize adverse impacts upon surrounding nearby residential uses, the minimum setback of structures and uses associated with the Solar Facility, including fencing, PV panels, parking areas, and outdoor storage, but not including landscaping and berming, shall be not less than ~~3500~~300 feet from the nearest occupied dwelling on non-participating land existing and occupied at the time the Solar Facility was approved by the County ~~to the nearest Solar Facility structure (typically the fencing) unless the property owner provides a written waiver of setback requirements.~~

4. Height. ~~The maximum height of the lowest edge of the photovoltaic panels shall be 10 feet and T~~the maximum height of the highest edge of the photovoltaic panels shall be 20 feet as measured from the finished grade. The maximum height of all other structures associated with the Solar Facility shall be 45 feet as measured from the finished grade at the base of the structure to its highest point, including appurtenances, with the exception of substations and electrical power transmission lines. The Board of County Commissioners may approve a greater height based upon the demonstration of a significant need and where the impacts of increased height are mitigated.

5. Screening (requirements may be modified by the Zoning Administrator for projects in the P-1 District). Screening and buffering shall be used to mitigate adverse visual impacts and to provide for compatibility between dissimilar adjoining uses. Screening is required to ~~substantially block~~screen any view of material, equipment, or stored vehicles from any point located on a street or ~~adjoining property adjacent~~occupied dwelling immediately

adjacent to the site and outside of the Project Boundary unless the property owner provides a written waiver of setback requirements. The required Project Boundary Setbacks and associated Buffer Zone provide a measure of screening by providing increased distance or setbacks from exterior property lines to reduce impacts associated with the Solar Facility. The applicant shall use one or a combination of methods listed in this section, or other comparable methods deemed equivalent by the Zoning Administrator, to satisfy the screening requirements except to the extent waivers are obtained from neighboring property owners as provided above.

- a. Existing Screening. Existing vegetation, topography, buildings, open space, or other elements located on the site may be considered as part of the required screening.
- b. Landscaping. Landscaping intended for screening shall consist of a combination of evergreen trees that are 5-6 ft. in height at time of planting and deciduous trees that are 5-6 ft. in height at time of planting. Trees shall be placed on average at 15 ft. on center and be planted in no less than ~~three~~ one (1) rows. A list of appropriate plant materials shall be available at the Planning & Development Office.
- c. Berming. Berms shall generally be constructed with a 3:1 side slope to rise ratio, 4-6 ft. above the adjacent grade, with a 3 ft. wide top (the wide top is necessary to have a flat area for plantings). The outside edges of the berm shall be sculpted such that there are vertical and horizontal undulations to give variations in appearance. When completed, the berm should not have a uniform appearance.
- d. Fencing. Fencing intended for screening shall be at least 75 percent visually solid as viewed on any line perpendicular to the fence from adjacent property or a public street. Such fencing may be used in combination with other screening methods but shall not be the primary method. A typical example is the use of wood privacy fencing and landscaping to screen structures such as substations. Depending on the location, ornamental features may be required on the fence. Fencing material shall not include plastic slats.

~~6. Ground Cover. Ground cover on the site shall be native vegetation, and incorporation of native plant species that require no pesticides, herbicides, and fertilizers or the use of pesticides and fertilizers with low toxicity, persistence, and bioavailability is recommended.~~

Commented [A21]: Defer to section J.g. This is duplicative.

~~7.6. Security Fencing. The Solar Facilities shall be enclosed by security fencing not less than six (6) feet in height. Heights greater than six feet may require a building permit from the Pueblo Regional Building Department and County. Security fencing shall be placed around sections of the facilities, including PV pods, to provide openings between the sections and pods to allow for the movement of migratory animals and other wildlife. Security fencing shall be placed on the interior of the Buffer Zone to be significantly screened from public view.~~

Commented [A22]: The presence and mitigation of any potential impacts on wildlife should be evaluated on a case by case basis through the Environmental Impact Analysis by experts rather than imposed on all projects.

~~a. A performance bond reflecting the costs of anticipated fence maintenance shall be posted and maintained. Failure to maintain the fence in a good and functional condition will result in revocation of the permit.~~

Commented [A23]: A fence bond is unnecessary and unprecedented in the Code.

~~b.e.~~ Fencing shall be monitored for buildup of tumbleweeds-vegetation and other windswept debris and cleared of such as needed. Monitoring and potential clearing

of ~~tumbleweeds-vegetation~~ shall take place at least once ~~between October 1st and November 31st of each year~~ annually. Tumbleweeds shall be disposed of in a manner as to mitigate seed dispersal.

~~8.7.~~ Wildlife corridors. If the Environmental Impact Analysis identifies a need for a ~~Access~~ corridors for wildlife to navigate through the solar facility to mitigate impacts to migrating wildlife, such corridors shall be identified and shown on the Concept Plan and Development Plan submitted to the County.

Commented [A24]: This should be a case by case analysis as noted above. This section would also be more effectively located in the Environmental Impact Analysis section.

~~9.8.~~ Style. The design of support buildings and related structures shall use ~~materials, neutral~~ colors, ~~textures,~~ screening, and landscaping that will blend the facilities to the natural setting ~~and surrounding structures~~.

~~10.9.~~ Exterior/Outdoor Lighting. Outdoor lighting shall be limited to levels required for safety and security. Facilities need to comply with section 17.120.180. All lights shall be shielded.

~~11.10.~~ Signs. The County's typical stipulation allowing a sign with a sign permit in accordance with Chapter 17.116 of these regulations.

~~12.11.~~ Sound. No sound resulting from ~~the industrial or business activity~~ Solar Facility shall ~~be measurable at the outer boundaries of the parcel~~ exceed the maximum levels permissible in the County's Noise Ordinance and state law.

Commented [A25]: All of these are discussed in other ordinances within the County Code. The County has as sound ordinance and can enforce provisions for nuisances.

~~13.~~ Vibrations. ~~No vibrations resulting from the industrial or business activity shall be measurable at the outer boundaries of the parcel.~~

~~14.~~ Odors. ~~No odors resulting from the industrial or business activity shall be discernible at the outer boundaries of the parcel.~~

~~15.~~ Gasses. ~~No noxious gases resulting from the activity shall be discernible beyond the outer boundaries of the parcel.~~

~~16.12.~~ Smoke. ~~No observable smoke shall be emitted.~~

~~17.~~ Dust. ~~No dust or dirt resulting from the activity shall be discernible beyond the outer boundaries of the parcel.~~

~~18.~~ Glare. ~~No glare shall be discernible beyond the outer boundaries of parcel.~~

~~19.~~ Heat. ~~No heat shall be discernible beyond the outer boundaries of parcel.~~

~~20.13.~~ Ingress/Egress. Permanent access roads and parking areas will be ~~stabilized with gravel, asphalt, or concrete~~ maintained to minimize dust ~~and~~ impacts to adjacent properties. Active dust control measures will be in place during construction of the project.

~~21.~~ Water Supply. ~~After completion of construction, water may be purchased for the purpose of washing panels if the Applicant and the Water Provider enter into a mutually acceptable agreement.~~

~~22.14.~~ Coordination of local emergency services. Applicants for new solar facilities shall coordinate with the County's emergency services staff to provide materials, education

and/or training to the departments serving the property with emergency services in how to safely respond to on-site emergencies.

~~23.15.~~ At all times, the Solar Facility shall comply with any other condition added or required by the Board of County Commissioners as part of a 1041 Permit approval.

~~24.16.~~ Compliance with other local, state, and federal regulations. During the term of this permit, operation shall fully comply with all applicable local regulations, as well as all applicable state and federal regulations, including but not limited to, the U.S. Environmental Protection Agency (EPA), Federal Aviation Administration (“FAA”), State Corporation Commission (“SCC”) or equivalent, Colorado Department of Public Health and Environment (CDPHE), Colorado Department of Agriculture, the Colorado Parks and Wildlife (CPW), and all the applicable regulations of any other agencies.

~~25.17.~~ If the Solar Facility does not receive a building permit within ~~24~~36 months of approval of the 1041 Permit, the Permit shall be terminated.

~~26.18.~~ Construction timeline. Unless allowed by a phasing plan approved by the Board, the Solar Facility shall be installed in accordance with the Development Plan within three (3) years of approval of the permit. Extensions may be granted by the BOCC on a case-by-case basis as deemed necessary or appropriate.

~~27.19.~~ Traffic. The applicant shall comply with ~~all applicable~~ Colorado Department of Transportation (CDOT) and/or Pueblo County Department of Engineering and Public Works ~~recommendations requirements~~ for traffic management during construction and decommissioning of the Solar Facility.

- a. Access Permit: Pursuant to Chapter 12.04, Article 7 of the Pueblo County Code, the applicant shall apply to the Pueblo County Department of Engineering and Public Works for an Access Permit for their proposed access locations onto any Pueblo County public road. All applicable conditions of said access permit shall be complied with prior to commencing construction. Final approval of the access permit by the Pueblo County Department of Engineering and Public Works shall be deemed as compliance with ~~this these~~ conditions for an access permit.

- b. The owner/operator will enter into a road use agreement prior to issuance of the building permits with Pueblo County Department of Engineering and Public Works. The roads shall be maintained in a safe operating condition during the construction phase and be brought back to the original condition, or improved, upon completion of the construction and decommissioning phases as provided below. , unless, as

- i. Haul route road conditions shall be documented by the owner/operator prior to construction by video, photograph and other means and such documentation shall be provided to the County to form the pre-construction condition. Upon completion of construction, haul route conditions shall again be documented to form the post-construction condition. Comparison of the pre-construction condition and post-construction condition documentation shall be used to determine repairs due to damage caused by Solar Facility construction.

- ii. If reasonably determined by the Director of Engineering and Public Works

Commented [A26]: Consider putting information in a Road Use Agreement and require road use agreement prior to building permit issuance. This can be managed by the Dept. of Engineering and Public Works as appropriate to each project. Also see requirements for mining in current Code.

that, extensive damage as a result of Solar Facility construction activities has occurred and that damage presents a hazard to the public, the Director shall provide notice to the owner or operator of the facility to in which case immediate make temporary emergency repairs must be made as soon as feasible.

i.iii. The Applicant shall provide written notice to both the Zoning Administrator and the Director of Engineering and Public Works of the plans for making necessary repairs, including time within which repairs will be commenced and completed, within thirty (30) days of any written notice received from the Zoning Administrator.

Commented [A27]: Moved up from later section.

i. Gravel road: prior to the construction phase of the facility the applicant shall dust treat the entire length of x road (road segment description) and pay for the application (labor and material) of dust suppression materials. The applicant shall be required to re-gravel all identified roads if traffic causes substantial loss of existing gravel. The County and the applicant shall agree on the existing state of x road(s) prior to the start of construction. After construction activities have ceased x road(s) shall be evaluated for loss of gravel as measured against the condition prior to construction activity. If required, the applicant shall re-gravel the entire length of x road (road segment description) to Pueblo County road with 4 inches of class 6 base course.

ii. Paved road: the applicant shall be responsible for damage to any Pueblo County public roads caused by their construction traffic. The County and the applicant shall agree on the existing state of Pueblo County public road(s) as documented by video taken by a representative from the Department of Engineering and Public Works (PW) and making note of any existing damage prior to the beginning of construction activities. The route shall be monitored during construction activities and the applicant shall make repairs caused by construction traffic at the direction of the Director of Engineering and Public Works. Within two (2) weeks after construction activities have ceased the applicant shall contact this department and request that the video be scheduled to be taken. Any stationing and width measurements before and after shall be performed by the County. The road will be evaluated for damage as measured against the condition prior to construction activity. The applicant shall then make any necessary repairs to the road, as determined by PW, such that it will be in a similar state as existed prior to construction activities.

28.20. Maintenance. The Solar Facility shall be continually maintained and kept in good repair and shall include, but not be limited to, fencing, ground cover, weed mitigation, screening, lighting, driveways, entrances, and structures. The Solar Facility operator or owner shall be responsible for the cost of maintaining the Solar Facility and the cost of repairing damage to public and private roads occurring because of construction and operation. Failure to maintain the Solar Facility may result in revocation of the 1041 Permit and the facility's decommissioning pursuant to Section 17.148.320. The operator shall notify the County prior to application of any pesticides or fertilizers. The County reserves the right to request soil and water testing.

Commented [A28]: Covered above.

Commented [A29]: Covered below.

~~29.21.~~ Inspections. The Applicant will allow designated County representatives or employees access to the Solar Facility for inspection for the purposes of determining compliance with County regulations, compliance with conditions of approval, or for concerns of public health or safety with 24-hour 3 days written notice to the owner and operator and pursuant to industry standard safety procedures. The Applicant shall reimburse the County its costs in obtaining an independent third-party to conduct inspections that are required to be conducted by County officials by local and state laws and regulations.

Commented [A30]: Added same purposes and timing as is provided for mining activities in the County ordinance.

~~30. The owner and operator shall give the County written notice of any proposed change in ownership or operator which shall be approved by the BOCC to continue operating under the 1041 Permit in conformance with Chapter 17.148 Administrative Regulations, Article 4. Permits, Section 17.148.330 Transfer of Permits.~~

Commented [A31]: None of this section is necessary since it is just following the provisions of this section for any 1041 permit. It should be deleted.

G. Special provisions for battery facilities. In addition to the above general provisions, application requirements, and development and performance standards, the following additional requirements shall be met for the approval of a Battery Energy Storage Facility:

1. Battery Energy Storage Facilities shall be constructed, maintained, and operated in accordance with applicable national industry standards and regulations including the most current adopted edition of the National Electrical Code, International Fire Code of the International Code Council, and the National Fire Protection Association Fire Code. The batteries will be NFPA (National Fire Protection Agency) compliant. In the event of a conflict between the national industry standards and the se Conditions standards herein, the national industry standards shall control so that as technology advances, updated technology may be used.
2. Battery cells shall be placed in a Battery Energy Storage System (“BESS”) with a Battery Management System (“BMS”). The BESS shall provide a secondary layer of physical containment to the batteries and be equipped with cooling, ventilation, and fire suppression systems. Each individual battery shall have 24/7 automated fire detection technology built in. The BMS shall monitor individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and be able to shut down the system before Thermal Runaway takes place.
3. The Battery Energy Storage System will be placed on an appropriate foundation and not located within screened with vegetation outside of environmentally sensitive areas.
Access to all batteries and electrical switchgear shall be from the exterior for normal operation and maintenance. Access to the container interior shall not be permitted while the system is in operation except for safety personnel and first responders.
- ~~4. Qualifications and experience from selected developers and integrators shall be provided including disclosure of fires or other hazards at facilities.~~
- ~~5.4.~~ Safety testing and failure modes analysis data from selected developers and manufacturers of proposed Battery Energy Storage System equipment shall be provided.
- ~~6.5.~~ The latest applicable product certifications shall be provided.

Commented [A32]: Potential fire hazard and unnecessary since general screening requirements apply to Solar Facilities.

~~7. The Solar Facility operator or owner shall be responsible for any environmental remediation required by the county or the state and the costs of such remediation. All remediation shall be completed in a timely manner.~~

Commented [A33]: Should be part of decommissioning restoration generally. At a minimum, the language needs to be clarified that this is limited to contamination caused by the solar facility on site, but ultimately this obligation is already covered by state and federal law.

~~8.6.~~ Battery storage shall be developed ~~in collaboration with technical experts and first responders~~ to utilize technology-appropriate best practices for safe energy storage systems including, but not limited to, the following:

- a. Adequate access/egress for the first responders;
- b. Adequate facility signage (on battery chemistry and person to contact);
- c. Accessible Safety Data Sheets;
- d. System-specific emergency response plans;
- e. Training for first responders on the type of system, potential hazards and risks, and system-specific emergency response plans;
- f. Adequate water sources and fire suppression appliances for the fire fighters if required in the emergency response plans;
- g. Signage on Hazardous Materials present in the vicinity;
- h. Emergency lighting;
- i. Separate battery modules to better isolate a failed battery;
- j. Sufficient disconnect and shutdown capability including a master kill switch to disable and discharge batteries;
- k. System-appropriate sensors and alarms;
- l. Air ventilation and fire suppression systems;
- m. Drainage for water runoff; and
- n. Other practices as recommended by experts or local first responders.
- o. The Solar Facility operator or owner shall conduct regular on-site inspections of the battery units ~~and submit a written report to the Zoning Administrator on their condition, at least once every six (6) months.~~

~~H. Special provisions for substations. In addition to the above general provisions, application requirements, and development and performance standards, the following additional requirements shall be met for the approval of a substation:~~

Commented [A34]: Added to above sections as appropriate.

- ~~1. Siting. Substations located within the Solar Facility shall be located in accordance with the Concept and Development Plans.~~
- ~~2. Term. Substations included as part of the Solar Facility may have a life longer than that of the remainder of the Solar Facility and may continue under the 1041 Permit as part of this application approval.~~

~~I.H. Final Decommissioning and Reclamation Plan. The following requirements shall be met for decommissioning the Solar Facility and reclamation of the site.~~

Commented [A35]: Removed duplicative items covered above.

1. ~~Solar facilities that have reached the end of their useful life or have not been in active and continuous service for a period of six (6) months, shall be decommissioned at the Solar Facility owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the County may require evidentiary support that a longer repair period is necessary.~~

2. ~~If the Solar Facility is to be decommissioned, the Solar Facility owner or operator shall notify the Zoning Administrator in writing of the proposed date of discontinued operations and plans for removal.~~

1. An updated cost of Decommissioning shall be provided prior to issuance of building permits for the Solar Facility based on final design.

2. Decommissioning shall be performed in compliance with the approved Decommissioning Plan. The BOCC may approve any appropriate amendments to or modifications of the Decommissioning Plan upon application by the Solar Facility owner.

3. ~~Decommissioning shall include removal of anything above or below ground that was constructed or erected as part of the Solar Facility to include structures, buildings, equipment, cabling and wiring, solar electric systems, electrical components, security barriers, driveways, entrances, foundations, pilings, and any other associated facilities, including all material and equipment located underground.~~

4. ~~Once such removal is completed, any agricultural ground upon which the Solar Facility was located shall be again tillable and suitable for agricultural or forestall uses.~~

5. ~~Decommissioning shall also include restoration of the Project Area to pre-development conditions, including pre-development grading, and to include grading and re-seeding the site to restore it to as natural a pre-development condition as indicated on the Development Plan and other application materials. Re-grading and re-seeding or replanting shall be initiated within a six-month period of removal of equipment. The site shall be re-graded and re-seeded or replanted within 12 months of removal of solar facilities.~~

6. ~~Any exception to site restoration, such as leaving driveways, entrances, or landscaping in place, or substituting plantings, shall be requested by the landowner in writing, and this request must be approved by the BOCC.~~

7. ~~Hazardous material from the property shall be disposed of in accordance with federal and state law.~~

~~The County shall consent to the release of funds upon compliance with the approved decommissioning plan. The County may approve the partial release of funds as portions of the approved decommissioning plan are performed.~~

If the owner or operator of the solar facility fails to remove the installation in accordance with the requirements of the ~~is permit~~ Decommissioning Plan or within the proposed date of decommissioning, the County may ~~collect access~~ the financial security for the purpose of decommissioning and the County or hired third party ~~may enter~~ shall be granted access to the property upon 48 hours written notice to the owner/operator and property owner(s) to physically remove the installation ~~Solar~~

Commented [A36]: Again, compare to 1041 Permit requirements at Sec. 17.148.310.

Facility.

1. General Conditions Prior to Construction.

1. Final Site Plan Requirements. In addition to all Colorado site plan requirements and site plan requirements of the Zoning Administrator, the Applicant shall provide the following plans for review and approval for the Solar Facility prior to the issuance of a building permit:

- a. Final Development Plan – showing final locations of all facilities and updates from the Conceptual Development Plan for review of compliance with all required standards.

- ~~a-b.~~ Construction Management Plan. The Applicant shall prepare a “Construction Management Plan” for each applicable site plan for the Solar Facility, and each plan shall address the following:

- i. Traffic control methods (in coordination with the Colorado Department of Transportation [CDOT] and County Public Works prior to initiation of construction):

- 1) Lane closures,
 - 2) Signage, and
 - 3) Flagging procedures.

- 4) Site access planning. Directing employee and delivery traffic to minimize conflicts with local traffic.

- ii. Site security. The Applicant shall implement security measures prior to the commencement of construction of Solar Facilities on the Project Site.

- iii. Lighting. During construction of the Solar Facility, any temporary construction lighting shall be positioned downward, inward, and shielded to eliminate glare from all adjacent properties. Emergency and/or safety lighting shall be exempt from this construction lighting condition.

- iv. Water Supply. In the event that ~~on-site wells are~~ water will be used during construction of the solar energy facility, the Applicant shall provide documentation that applicable approvals have been obtained pursuant to Colorado state law and applicable regulations. ~~prepare and submit for review to the County hydrogeologic information necessary for the County to determine the potential impact to pre-existing users for the same aquifer proposed to be used for the solar energy facility and a plan to mitigate impacts to pre-existing users within the area of impact of the Project. If the County, in consultation with the Department of Environmental Quality, determines that the installation of a well will not adversely affect existing users, the Applicant may proceed with well construction in compliance with approval by the Department of Environmental Quality. At the end of the construction of the solar energy facility, the well shall not thereafter be used except only for personal toilet and lavatory facilities as required by the Uniform Statewide Building Code for operations and maintenance buildings.~~

Commented [A37]: Compare to earlier requirements for submittal and move items appropriate for construction here.

Commented [A38]: Where are these requirements provided?

Commented [A39]: By what body or official?

Commented [A40]: Traffic is covered in two locations previously. Consolidate?

Commented [A41]: Specify what is required.

~~b.c.~~ **Construction Mitigation Plan.** The Applicant shall prepare a "Construction Mitigation Plan" for each applicable site plan for the Solar Facility, and each plan shall address the effective mitigation of dust, burning operations, hours of construction activity, ~~access and road improvements~~, and handling of general construction complaints as set forth and described in the application materials and to the satisfaction of the Zoning Administrator. ~~Damage to public roads related to construction activities shall be repaired as soon as possible and not postponed until construction completion. The Applicant shall provide written notice to both the Zoning Administrator and the Director of Engineering and Public Works of the plans for making such repairs, including time within which repairs will be commenced and completed, within thirty (30) days of any written notice received from the Zoning Administrator.~~

Commented [A42]: Should be in road use section. Partly duplicative.

~~i. Driving of posts shall be limited to 7:00 am to 6:00 pm, Monday through Saturday except as approved by the Zoning Administrator. Driving of posts shall be prohibited on state and federal holidays.~~

~~ii.v. Other construction activity on site shall be permitted Monday through Saturday, and in accordance with the provisions of the County's Noise Ordinance.~~

Commented [A43]: Why impose restrictions more onerous than on other uses in the County for construction activities? Recommend striking all of this language.

~~iii.vi. During construction, the setbacks may be used for staging of materials and parking. No material and equipment laydown area, construction staging area, or construction trailer shall be located within 200 feet of any property containing a residential dwelling outside the Project Boundary unless a written waiver is obtained from the property owner.~~

~~iv. Construction lighting shall be minimized and shall be directed downward.~~

~~e.d.~~ **Final Traffic Study.** The Applicant will submit a final Traffic Study for review and approval if required by the Zoning Administrator prior to the commencement of any construction activities.

~~d.c.~~ **Final Grading Plan.** The Applicant will submit a final Grading Plan for review and approval by the Zoning Administrator prior to the commencement of any construction activities. A bond or other security will be posted for the grading operations. The Project shall be constructed in compliance with the Grading Plan. The grading plan shall:

Commented [A44]: No details on how amount is calculated, how long it is held, etc. How are other construction projects treated for grading – is bond required? None found in Code.

~~i. Clearly show existing and proposed contours at no greater than five foot (5 ft.) contours;~~

~~ii. Note the locations and amount of topsoil to be removed (if any) and the percent of the site to be graded;~~

~~iii. Limit grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms;~~

~~iv. An earthwork balance will be achieved on site with no import or export of soil;~~

~~v. In areas proposed to be permanent access roads which will receive gravel or in any areas where more than a few inches of cut are required, topsoil will~~

first be stripped and stockpiled on site to be used to increase the fertility of areas intended to be seeded;

vi. ~~Take advantage of natural flow patterns in drainage design and keep the amount of impervious surface as low as possible to reduce storm water storage needs.~~

vii. ~~Provide for the installation of all stormwater and erosion and sediment control infrastructure at the outset of the project to ensure protection of water quality. Once this infrastructure is complete and approved by the County, no more than 50 percent of the land disturbance areas as reflected on the Site Plan shall be disturbed without soil stabilization at any one time. Stabilization, for purposes of erosion and sediment control, shall mean the application of seed and straw to disturbed areas, which shall be determined by the County.~~

viii. ~~Excavation permit (if a road is cut): The applicant is required to apply for an excavation permit with the PW department for structures to cross under road(s).~~

~~e.f. Final~~ Erosion and Sediment Control Plan. The applicant will provide a final plan that will conform with the requirements of Colorado law. This plan may be included as a part of the Stormwater Management Plan. County will have a third-party review with corrections completed prior to County review and approval. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan. An E&S bond (or other security) will be posted for the construction portion of the project.

~~f.g. Final~~ Stormwater Management Plan. The applicant will provide a final plan and obtain required permits in compliance with Colorado law. County will have a third-party review with corrections completed prior to County review and approval. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan. A storm water control bond (or other security) will be posted for the project for both construction and post construction as applicable and determined by the Zoning Administrator.

Commented [A45]: Not required due to NPDES permit.

i. Pueblo County stormwater permit (if located within Pueblo County's MS4 boundary): prior to applying for a building permit or access permit the applicant shall apply for and obtain approval of a Pueblo County application for stormwater construction permit.

ii. State construction stormwater permit: prior to applying for a building permit or access permit the applicant shall submit to the department of engineering and public works a copy of the approved Colorado Department of Public Health and Environment (CDPHE) storm water permit and stormwater management plan.

g. Drainage report: prior to the construction phase and as a condition of the access permit the applicant shall submit a final drainage report prepared by a professional engineer licensed to practice in the state of Colorado for approval by this department.

Commented [A46]: Which Department?

~~g.h. Final~~ Screening and Vegetation Plan. The applicant will submit a final Screening

and Vegetation Plan for review and approval by the Zoning Administrator for compliance with the requirements and conditions of the approved 1041 permit.

- i. The plan shall include native species and pollinators along with the overall plant density and the density of individual phases or other designated segments/pods. The owner or operator shall construct, maintain, and operate the facility in compliance with the approved plan. ~~A separate security shall be posted for the ongoing maintenance of the project's land cover and vegetative buffers in an amount deemed sufficient by the Zoning Administrator.~~ Failure to maintain the landscaping in accordance with the landscape maintenance plan may result in the issuance of a notice of violation by the Zoning Administrator. The applicant (or the operator) shall promptly communicate with the Zoning Administrator within 30 days of the date of the notice of violation and submit a plan in writing satisfactory to the Zoning Administrator to remedy such violation no later than 180 days after the date of the notice of violation. Failure to remedy the violation before the end of ~~the a subsequent 180-day cure period~~ may result in revocation of the permit pursuant to Section 17.148.320.

Commented [A47]: Bond not required for other uses in the County, why this use?

- ii. Ground cover shall be native vegetation where compatible with site conditions ~~and, in all cases, shall be approved by the Zoning Administrator.~~

- iii. Screening vegetation shall include pollinator plants where compatible with site

- ~~iii-iv.~~ A list of appropriate plant materials shall be available at the Planning & Development Office conditions and, use of alternative plants from those on the list in all cases, shall be approved by the Zoning Administrator.

- ~~iv-v.~~ Herbicide Land Application Plan. The applicant shall submit an herbicide land application plan prior to approval of the certificate of occupancy (or equivalent). The plan shall specify the type of herbicides to be used, the frequency of land application, the identification of approved groundwater wells, wetlands, streams, and the distances from land application areas to features such as wells, wetlands, streams, and other bodies of water. Only EPA approved herbicides shall be used for vegetative and weed control at the solar energy facility by a licensed applicator. No herbicides shall be used within 150 feet of the location of an approved ground water well. The applicant shall submit an herbicide land application plan prior to approval of the certificate of occupancy (or equivalent). The plan shall specify the type of herbicides to be used, the frequency of land application, the identification of approved groundwater wells, wetlands, streams, and the distances from land application areas to features such as wells, wetlands, streams, and other bodies of water. The operator shall notify the county prior to application of pesticides and fertilizers. The county reserves the right to request soil and water testing.

- v. Revegetation Bond. The disturbed area shall be any portion of the project area where any vegetative cover or topsoil is removed and these areas shall be clearly shown on a map, clearly showing: all disturbed areas, the acreage calculations for each area, and the total disturbed area acreage. The plant density shall also be noted per the approved Screening and Vegetation Plan.

Commented [A48]: What cure period? The 180 days is to provide a plan. Is there an additional 180 days to implement?

~~A bond or other form of security agreeable to Pueblo County shall be posted for the revegetation and stabilization in an amount equivalent to \$3500.00 per disturbed acre. Upon achieving final stabilization, as defined in the Colorado Department of Public Health and the Environment (CDPHE) General Permit Number COR 400000 for Stormwater Discharges Associated with Construction Activity, and subject to concurrence of the Pueblo County Department of Engineering and Public Works, the bond will be released.~~

Commented [A49]: Not necessary w/ NPDES permit.

~~h.i.~~ **Final** Decommissioning and Reclamation Plan. The applicant will submit a final Decommissioning and Reclamation Plan, certified by a licensed ~~design~~ professional registered in the State of Colorado, in accordance with Zoning Regulations for review and approval by the Zoning Administrator.

Jeremy Faris
Willy Faris
30820 Everett Road
Pueblo, CO 81006
(719)924-3807

Pueblo County Planning Commission
Carmen Howard, Director of Planning and Development

August 4, 2021

RE: Proposed amendments for solar energy development

Dear Planning Commission:

As residents and agricultural producers in Pueblo County, we are providing comments of opposition to the proposed amendments to Pueblo County Code Title 17, Division II, Chapter 17.168 regarding Solar Energy Facilities. Of greatest concern is the requirement that Solar Facilities shall be located greater than one mile from Development Action Areas (other solar projects) and proposed maximum 65% Solar Photovoltaic Panel Coverage in relation to the Project Area. These amendments are extremely disadvantageous for smaller land owners, results in diminished efficiency of land utilization, increases the potential burden on surrounding land adjacent to solar projects and results in higher electricity rates for Pueblo County consumers.

Smaller land owners will be eliminated from participating with solar developers to secure energy supply contracts with utility companies. The proposed amendments will give tremendous advantage to the largest land holders and disqualify smaller potential competitors. These proposed policies to benefit the largest land owners will limit competition for solar energy projects in Pueblo County while passing the increased electrical costs to the entire populace of the county. Solar revenue has the potential to provide a stable source of secondary income for small agricultural operators on their least productive land which can help them navigate volatile climate conditions and depressed commodity prices. These policies do little to help preserve agricultural production in the county when it places smaller operators at a disadvantage in obtaining solar leases.

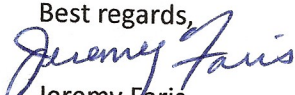
Utilizing only 65% of a project site for PV panel coverage will guarantee additional land being taken out of agricultural production to accommodate the project yet produce no more electricity. It only drives up the cost. The one mile barrier between solar projects is extremely detrimental to any logical approach for planning solar capturing areas in the county. Adjacent projects provide more benefit than a checkerboard approach. The site locations will be located away from other residential or commercial development pressures, out of site from heavily traveled roads, of lower quality for agricultural production and similarly located to utility company improvements. It would make sense that a site adjacent to an existing solar development would potentially have great attributes as a solar

development site itself. It is not logical and terribly inefficient to automatically eliminate adjacent properties from solar development. It is inequitable to the landowner that would have to serve as the buffer zone between two solar developments and be eliminated from participation on his/her own. A checkerboard approach to development will result in additional land being unnecessarily taken out of agricultural production yet increase the potential burden on surrounding land that is not developed. The buffer zones greatly increase the perimeter exposure of solar project developed lands to non-developed lands. The increased perimeter between these lands amplifies the potential to spread noxious weeds.

The proposed amendments limit competition for utility company contracts, drive up costs of development and most assuredly have a negative impact on the delivery of affordable, clean energy for the residents of Pueblo County.

Thank you for your consideration.

Best regards,


Jeremy Faris


Willy Faris

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: anti-solar ordinance
Date: Tuesday, August 10, 2021 2:10:49 PM

From: laurent@capitolsolarenergy.com <laurent@capitolsolarenergy.com>
Sent: Tuesday, August 10, 2021 1:53 PM
To: planning1 <planning@pueblocounty.us>
Subject: anti-solar ordinance

Dear Pueblo Planning Commissionners :

I hope you will reflect on what you want for Pueblo:

- Move forward, toward the growing 60,000 green jobs in our state, and a positive spiral of clean energy, clean air, new jobs and lower utility bills.
- Move backward, clinging to a much smaller fossil fuel industry with 10,000 dwindling jobs, in a vicious circle of pollution, high energy costs and a bad image that deters new business development.

Please revisit this ill-advised ordinance and consult with key stakeholders.

Best regards,

Laurent Meillon, MBA es New Business Development, MS in Finance
CEO, Capitol Solar Energy, LLC, Harvesting Sunlight for 39 Years
Tel (303) 792 0155

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities
Date: Sunday, August 8, 2021 6:59:38 PM

From: Bill Pierce <billcinpierce@hotmail.com>
Sent: Saturday, August 7, 2021 9:07 PM
To: planning1 <planning@pueblounty.us>
Subject: County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Planning Commission,

We are aware of the new, proposed draft solar amendments for Solar Energy Facilities for our county. We have found that these amendments are of such importance and complexity, that we would ask for more time to review them. We would ask for at least another 60 days to sufficiently review and improve the amendments.

Thank you for your attention to this matter.
William & Cindy Pierce

From: [oncall](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Message for Pueblo Planning and Zoning Commission
Date: Thursday, August 5, 2021 5:35:38 PM

From: Heather Maio <heathermaio54@gmail.com>
Sent: Thursday, August 5, 2021 3:08 PM
To: planning1 <planning@pueblounty.us>
Subject: Message for Pueblo Planning and Zoning Commission

Pueblo County Planning and Development Commission
229 W 12th St
Pueblo, CO 81003

August 5, 2021

RE: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Planning Commission,

We are aware of the new, proposed draft solar amendments for Solar Energy Facilities for our county. After receiving them in late July, we have found that these amendments are of such importance and complexity, that we would ask for more time to review them. We would ask for at least another 60 days, if possible.

Thank you for your attention to this matter.

Sincerely,

Ken Danti, President (ken@reoca.org)
Heather Maio, Secretary (heather@reoca.org)
Board of Directors
REOCA (Renewable Energy Owners Coalition of America)

Cc: County Commissioners
Garrison Ortiz
Chris Wiseman
Eppie Griego

From: [Cruz, Rochelle](#)
To: [Ortiz, Garrison](#); [Howard, Carmen](#)
Subject: FW: New amendments Regarding Solar Energy Facilities
Date: Thursday, August 5, 2021 3:15:43 PM

From: Pueblo County <webmaster@pueblocounty.us>
Sent: Thursday, August 5, 2021 3:13 PM
To: Cruz, Rochelle <cruzro@pueblocounty.us>
Subject: New amendments Regarding Solar Energy Facilities

Submitted on Thu, 08/05/2021 - 03:13 PM

Submitted by: Visitor

Submitted values are:

Your Name

Heather L Maio

Your Email

heather@reoca.org

Your Telephone

[7195538052](tel:7195538052)

Subject

New amendments Regarding Solar Energy Facilities

Message

Pueblo County Planning and Development Commission
229 W 12th St
Pueblo, CO 81003

August 5, 2021

RE: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Planning Commission,

We are aware of the new, proposed draft solar amendments for Solar Energy Facilities for our county. After receiving them in late July, we have found that these amendments are of such importance and complexity, that we would ask for more time to review them. We would ask for at least another 60 days, if possible.

Thank you for your attention to this matter.

Sincerely,

Ken Danti, President (ken@reoca.org)

Heather Maio, Secretary (heather@reoca.org)

Board of Directors

REOCA (Renewable Energy Owners Coalition of America)

Cc: County Commissioners

Garrison Ortiz

Chris Wiseman

Eppie Griego

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: public comment re solar ordinance
Date: Tuesday, August 10, 2021 9:49:25 AM

From: Martin Voelker <m.voelker@cres-energy.org>
Sent: Tuesday, August 10, 2021 1:16 AM
To: planning1 <planning@pueblocounty.us>
Subject: public comment re solar ordinance

To the County Commissioners

I would like to comment on what I believe are overly restrictive provisions for large scale solar in the county as outlined in your solar ordinance draft. (https://reoca.org/wp-content/uploads/2021/08/Pueblo-BOCC_Solar-Ordinance-Draft.pdf)

Re General Provisions – 3 – iv. Buffer zones:

This provision demanding a buffer zone appears to be arbitrary. Ground mounted PV does not technically require buffer zones, only a fence, and there is also no technical reason that it be "not visible from a major road".

PV is an important part of the changing energy economy and does not need to be hidden away.

PV has been deployed in Colorado at scale for well over a decade, e.g. the Alamosa Photovoltaic Power Plant in the San Luis Valley which is right off Highway 17 with no ill effects. It makes me wonder if the Virginia based Berkley Group which consulted on the project really had an understanding on how solar works in the arid West or Pueblo County.

re D. Decommissioning and Reclamation Plan

Here the PV operator is required to "be recalculated every five (5) years". That appears to be needlessly bureaucratic as the cost of removing panels and racking is not volatile. It is also in stark contrast to the massively underfunded decommissioning requirements for oil and gas operations.

Brownfields:

I do applaud the idea of prioritizing brown fields etc but would caution that depending on those brownfield locations they might then be in conflict with some of the proposed conditions and kill an otherwise desirable project.

Missing provision re upgrades

What I find missing in the ordinance is a provision that allows the operator to replace panels without having to go through the entire process again. Advances in photovoltaics make it likely that replacing panels after only half their typical lifetime of 25+ years is economically sensible.

In closing: The commission would do well to simplify the application process, not make it more restrictive and complex, especially since a proposed amendment noted the increasing workload for permitting.

Sincerely,

Martin Voelker
Colorado Renewable Energy Society, Board member
New Energy Colorado, Board member

303-260-8981

From: [oncall](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Pueblo County Solar Regulations - Proposed Ordinance
Date: Wednesday, August 4, 2021 9:04:03 AM

Received on Planning email.

Terrence

From: tammy.bregar@aol.com <tammy.bregar@aol.com>
Sent: Wednesday, August 4, 2021 7:05 AM
To: planning1 <planning@pueblocounty.us>; Howard, Carmen <howardca@pueblocounty.us>
Cc: fred.bregar@aol.com
Subject: Pueblo County Solar Regulations - Proposed Ordinance

Pueblo County Commissioners, Planning Department

This email is regarding upcoming proposed changes to Pueblo County Solar Regulations.

We are residents and landowners in Pueblo County.

As we move toward our state's goal of achieving 100% renewable energy by 2040 it is important to minimize adverse effects to surrounding properties and the community. These adverse effects can be minimized by utilizing property that is best suited for solar facilities. With that in mind, we respectfully ask that you consider the following points regarding solar facilities in our community.

There are areas in Pueblo County that are well-suited for larger solar facilities. These areas may include:

- areas that are less densely populated,
- areas that have less potential for residential or growth,
 - there are areas in Pueblo County that have limited water resources for residences and farming with no access to water taps or shares of water
- areas that are near existing substations that can be used to transmit the power generated by the solar facility

The proposed restrictions below do not make sense for areas that are well suited for larger solar facilities and could hinder the ability to achieve 100% renewable energy in our state.

- Limiting the size to 2,500 acres - this does not make sense if in a well-suited area and more land is available on the property.
- Requiring solar projects to be 1 mile apart – **if the property is in a well-suited area, this will greatly limit the number of solar facilities and may increase the need for them to be built in less suitable areas**
 - This would also require more substations to be built
- Lot coverage limitation of 65% - having setbacks is needed, but 65% is excessive and will take more land to generate the same electricity.

As residents, landowners, and businesspeople of Pueblo County, we ask that you **please defeat the proposed ordinance as it will adversely affect landowners and the Pueblo County community.**

Thank you,
Fred and Tammy Bregar

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities
Date: Tuesday, August 10, 2021 3:34:10 PM

From: Pam Parks <pamela.parks33@gmail.com>
Sent: Tuesday, August 10, 2021 3:19 PM
To: planning1 <planning@pueblocounty.us>
Subject: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Planning Commission,

We are aware of the new, proposed draft solar amendments for Solar Energy Facilities for our county. We have found that these amendments are of such importance and complexity, that we would ask for more time to review them. We would ask for at least another 60 days to sufficiently review and improve the amendments.

Thank you for your attention to this matter.

Sincerely,

Pamela S Parks

(speaking for myself and several very knowledgeable family members)



Sender notified by [Mailtrack](#)



From: [oncall](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Pueblo Solar Regs
Date: Thursday, August 5, 2021 1:04:04 PM

From: Bradley Haight <brad@farmfirstenergy.com>
Sent: Thursday, August 5, 2021 9:58 AM
To: planning1 <planning@pueblocounty.us>
Subject: Pueblo Solar Regs

To whom it may concern

As a wind and solar project developer and consultant (as a lawyer) to projects and landowners, I'm writing to express my opposition to your proposed solar rules.

I don't object to regulation. My opposition is to regulation based on not-certain, not-germane issues that are contrary to energy project reality.

I few points I note -- A 40-year permit disregards energy project reality. Projects should have the ability to continue long-term, otherwise, we're potentially moving well-functioning projects. Separating facilities by one mile and/or imposing a 65%-80% coverage area unnecessarily increases costs, adds more above-ground lines, and subjects more areas to more infrastructure. And a one-mile setback unduly eliminates the development of industrial land, which is what should be used for these projects.

Again, I encourage smart regulation, but what's proposed (in my view) doesn't consider pertinent project reality.

Sincerely
Brad Haight

Farm First Energy, LLC
brad@farmfirstenergy.com
303-589-9619

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From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Subject: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities
Date: Sunday, August 8, 2021 6:59:01 PM

From: Jeri Jensen <jeriJean50@gmail.com>
Sent: Saturday, August 7, 2021 8:09 AM
To: planning1 <planning@pueblocounty.us>
Subject: Subject: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Planning Commission,

We are aware of the new, proposed draft solar amendments for Solar Energy Facilities for our county. We have found that these amendments are of such importance and complexity, that we would ask for more time to review them. We would ask for at least another 60 days to sufficiently review and improve the amendments.

Thank you for your attention to this matter.

Sincerely,

Jeri and Steve Jensen

**276 W Ben Hogan Dr, Pueblo West, CO 81007
719-547-1880**

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Zoning Amendments re solar energy facilities
Date: Tuesday, August 10, 2021 2:09:53 PM

From: Jim and Pat Good <jamesgood_9@q.com>
Sent: Tuesday, August 10, 2021 12:33 PM
To: planning1 <planning@pueblounty.us>
Subject: Zoning Amendments re solar energy facilities

Dear Planning Commission,

We are aware of the new proposed solar amendments for Solar Energy Facilities for our county. These amendments are both important and complex and we ask for more time to review them. We would ask for another 60 days.

Thanks for your attention to this matter.
Sincerely,
Mr. and Mrs. James Good
member REOCA

August 9, 2021

VIA EMAIL (howardca@pueblounty.us and planning@pueblounty.us)

Attention: Carmen Howard, Director
Pueblo County Planning and Development
229 W 12th Street
Pueblo, CO 81003

**Subject: Pueblo County Planning Commission – Proposed County Solar Ordinance Draft
Public Hearing – August 18th, 2021**

Dear Pueblo County Planning Commission,

I am asking you to reject the current draft proposal of the new Pueblo County Solar Ordinance. As it is written, the ordinance draft would prevent development of solar projects in many places (including within 1 mile of another solar project) and could eliminate my right as a landowner to participate in solar farm opportunities. The proposed regulations would take away my property rights to benefit from this opportunity to host a power plant on my land that will serve clean electricity to fellow Coloradoans.

Not only would my family lose the benefit we have bargained for through choosing to sign agreements to participate in solar projects, but the County would not benefit either. In addition, potentially hundreds of construction jobs would be lost due to these proposed changes.

I respectfully ask that any new regulations for utility-scale solar energy in the County consider landowner rights. The regulations for solar farms as proposed should be revised to be consistent with regulations for other proposed land uses in the County. The proposed regulations infringe upon the property rights of my family and many others who have chosen to participate in solar projects through leasing or selling land. Please consider rejecting the proposed solar ordinance. We ask that we be invited to participate in a mutually agreeable draft ordinance so that both landowners and the County benefit from these opportunities.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Robert C. Barr". The signature is written in a cursive style with a large, stylized "R" and "B".

Dr. Robert C. Barr

August 4, 2021

FROM:

Larry and Fern Schreder and Pikes Peak Home Center, Inc.
6005 Overton Rd.
Pueblo, CO 81008-9417

TO:

Pueblo County Planning Department
Attention: Chairwoman Hatton & Planning Commissioners
Electronically transmitted to: planning@pueblounty.us

Re: Opposition to the Proposed Amendments to the Pueblo Regional Development Plan (Comprehensive Plan) and Pueblo County Code (Zoning Ordinance) Regarding Solar Energy Facilities

Dear Chairwoman Hatton and the Pueblo County Planning Commissioners,

As a Pueblo County property owner, I want to express my strong opposition to the proposed amendments to the Pueblo Regional Development Plan ("Comprehensive Plan") and Pueblo County Code ("Zoning Ordinance") regarding solar energy facilities. As such, I ask that you **defeat this proposed ordinance and have a robust stakeholder engagement process with impacted landowners to find the right solution for Pueblo County.**

While there are many alarming elements to the proposed amendments, as a significant landowner in Pueblo County and a lessor to a solar developer, my predominant concern is how **these overly restrictive solar amendments hamper the ability of Pueblo County landowners like me to use our land as we see fit; thereby directly infringing on our property rights.**

Only allowing solar facilities in zones A1 and P1 severely limits where solar can be installed and infringe on my rights as a landowner. Currently, solar facilities are allowed within 19 zones. This ordinance would effectively restrict it to 1, as P-1 is specifically for the Pueblo Plex.

The size limit of 2,500 acres makes little sense as I may have more land available that is suitable for solar installations.

Requiring solar projects to be more than a mile from Development Action Areas, Critical Production Areas or existing solar facilities will limit the amount of available land for solar installations. These 1-mile buffers serve no purpose. Additionally, requiring solar to be located within 1 mile of a transmission line will advantage just a few landowners and hurt all others.

As a landowner who is interested in expanding solar in Pueblo County, there are many ways this land could be used, and by far, utilizing it as a site to generate clean energy is the best possible outcome for Pueblo County, the state of Colorado, and our community. The solar industry represents constructive growth and development for Pueblo County – in significant annual tax revenue and hundreds of construction jobs. All these gains come with a passive, low-impact, and temporary use of our property.

1. *Phragmites* (1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 26

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1. *Al. ...*
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1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific information required.

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2. Government has been unable to secure the
3. necessary funds to carry out its policy.
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1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

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1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the situation.

1. The first step in the process of the investigation is to identify the problem or issue that needs to be addressed. This involves gathering information about the situation and determining the scope of the investigation.

I strongly encourage you to defeat this proposed ordinance and have a robust stakeholder engagement process with impacted landowners to find the right solution for Pueblo County.

Pikes Peak Home Center, Inc.

Larry Schreder
Gen Schreder

Pikes Peak Home Center
by Rex Langford

1. The first part of the report is a summary of the work done during the year.

2. The second part is a detailed account of the work done during the year.

3. The third part is a summary of the work done during the year.

4. The fourth part is a detailed account of the work done during the year.

5. The fifth part is a summary of the work done during the year.

6. The sixth part is a detailed account of the work done during the year.

7. The seventh part is a summary of the work done during the year.

8. The eighth part is a detailed account of the work done during the year.

9. The ninth part is a summary of the work done during the year.

10. The tenth part is a detailed account of the work done during the year.

Dan and Cindy Henrichs
49707 E Hwy 50
Avondale, CO 81022
719-251-7891

August 6, 2021

Dear Pueblo County Planning Commission,

We are writing concerning the purposed amendments to the rules and regulations of 17.168.050 Solar Facilities.

We specifically would like to address Section F. Minimum Development and Performance Standards, Paragraph 21, subsection ss: Solar facilities shall be more than one (1) mile from an existing or permitted solar facility (not applicable for facilities within or adjacent to P-1).

The reasons we oppose this amendment is our property is directly adjacent to the 2800-acre Thunderwolf solar project. This amendment would prohibit our family from participating in solar development. We as neighbors have already been impacted by the Thunderwolf solar project. Four hundred acres of our state land grazing lease has been converted to solar lease, reducing our grazing ability. Combining additional acres around the Thunderwolf project would be a benefit to all electric customers by reducing the cost of additional transmission lines at an estimate of eight hundred thousand dollars per mile. For us the logical thought process would be to develop additional acres around the current site concentrating the solar panels in area that would have little to no residential impact.

In paragraph 21, subsection qq: The percentage of Solar Photovoltaic Panel Coverage in relation to the Project Area is 65%. Requests for higher density may be submitted at the time of application if there is a clear justification. This request is subject to Zoning Administrator approval, but shall not exceed 80% (no limit in P-1).

As ranchers it is our goal to harvest the most pounds of beef per acre possible without overgrazing. By limiting the area to 65% you are reducing the potential kilowatt per acre produced. This would require more total acres to be set aside for solar production to achieve the same kilowatt of energy produced. Thus, creating a larger patchwork of solar panels effecting more people, more wildlife because the total project will have to cover more acres and producing less energy. Worth mentioning again the additional cost to consumers for those miles between solar parcels.

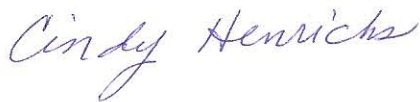
Talking with Carmen Howard, Director of Planning and Development, she expressed the reasons for these amendments were environmental concerns. As we read the regulations, it states that a six-foot fence needs to be constructed all the way around the 2800-acre Thunderwolf project parameter. If limiting the 2800 acres to 65%, it will then reduce it to 1820 acres of electricity production. The other 980 acres inside the fenced area is not usable by wildlife or livestock grazing. Another example is our property. This proposal would limit our four hundred acres. First by precluding us because we are within a mile of an existing project. Secondly, if removing the one-mile limitation were to occur, we could participate. Of our 400 acres, if we were to lease, does the entire 100% property have to be fenced? Or is just the 65% fenced? Limitations of 65% would mean 260 acres of land could be used for solar. The remaining 140 acres, if fenced out, would only be able to support 3.5 cows grazing in the average year, no longer supporting viable agriculture production.

As people who understand animals and study their movements, a patchwork of obstacles makes it harder for animals to migrate and move. This patchwork of fences effects antelope, deer and cattle as they travel to and from water.

Since we are already impacted by the Thunderwolf Solar Project, to us and some of our neighbors it makes more sense to consolidate the impact. The governor has stated the goal for Colorado is to be 100% renewable by 2040. If it takes nearly 8000 acres of solar to replace the energy produced by one of the coal fired towers at Comanche Power Plant, replacing two towers will impact 16,000 acres of land. By adopting the 65% reduction, you increase the acres impacted to 24,615 acres! Please make these solar projects as productive and cost efficient as possible.

Vote against these proposed regulations.

Sincerely,



Dan and Cindy Henrichs



August 5, 2021

Pueblo County Planning & Development Department
Attention: Chairwoman Hatton & Planning Commissioners
Electronically transmitted to: planning@pueblocounty.us

Re: Opposition to the Proposed Amendments to the Pueblo Regional Development Plan (Comprehensive Plan) and Pueblo County Code (Zoning Ordinance) Regarding Solar Energy Facilities

Dear Chairwoman Hatton and the Pueblo County Planning Commissioners,

I write today to express my strong objection to the proposed changes to Pueblo Regional Development Plan (Comprehensive Plan) and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities as outlined in the Pueblo County PC Solar Memo and Attachment B. Section 17.168.050. I urge the Commission to defeat this proposed ordinance and have a robust stakeholder engagement process with the solar industry to find the right solution for Pueblo County.

Over the last several years, Leeward Renewable Energy has made a considerable investment in the state of Colorado, including a proposed Photovoltaic solar project in Pueblo County. This proposed project would not only provide a significant source of clean energy, but also generate significant local tax revenue, landowner lease payments, construction dollars, and other supply chain and induced economic benefits, all while using the land in a quiet, low-impact and passive manner.

Nearly all of the changes proposed in the draft ordinance will make it difficult to site solar facilities within the county and highlight the lack of any industry input during the drafting of this ordinance. Many of the restrictions are arbitrary and contrary to good energy development and land use planning principles.

For example, requiring solar within 1 mile of a transmission line misses the value of having solar closer to a substation where there are lower costs and minimal impacts to grid operations. Additionally, the lot coverage restrictions of 65% and 1-mile barriers between solar projects will spread out the solar development across more of the County, resulting in a checkerboard-like visual and would require



more electrical infrastructure buildout like poles, wires and transformers, further cluttering the landscape.

Ultimately, this proposed ordinance will severely limit future solar installations within Pueblo County and push solar developers eastward into other counties, and Pueblo will lose out on the environmental and economic benefits that come from renewable energy projects of this size.

I urge you to please defeat this proposed ordinance and have a robust stakeholder engagement process with the solar industry to find the right solution for Pueblo County.

Thank you,

A handwritten signature in black ink, appearing to read "Andrew Flanagan".

Andrew Flanagan
Chief Development Officer
Leeward Renewable Energy

August 6, 2021

Pueblo County Planning Commission
215 W. 10th Street
Pueblo, Colorado 81003

RE: Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Commissioners,

Thank you for the opportunity to comment regarding the proposed changes to Pueblo Regional Development Plan (Comprehensive Plan) and Pueblo County Code (Zoning Ordinance) Amendments regarding Solar Energy Facilities as outlined in the Pueblo County PC Solar Memo dated July 22, 2021.

Over the last several years, Lightsource bp has established a productive relationship with Pueblo County through the construction of the Bighorn Solar project, which was approved in 2018, and through the 1041 permitting process that is currently underway for the Sun Mountain Solar Project.

This history has shown that the existing 1041 Permit process established by Pueblo County results in a meaningful dialogue between project developers and County staff; and also facilitates a comprehensive and thorough review of all solar projects proposed within the County. The 1041 Permit process leads to projects that are thoughtfully designed and provides a mechanism to ensure that all County requirements are met.

The proposed 19-page ordinance changes this process significantly and adds complexity and additional review and enforcement burdens on the County. Based on our preliminary analysis, the proposed ordinance includes a number of restrictions which would severely limit the amount of land available for solar development in Pueblo County. This would also reduce the potential economic benefits and job creation associated with the solar industry.

Rather than adopting a new lengthy process, we respectfully suggest that LSbp and other solar industry representatives work with County staff to identify ways to refine the existing 1041 Permit process to address any concerns and land use implications related to the development of future solar facilities in Pueblo County. LSbp is also open to exploring this issue further directly with Staff. We are confident that the LSbp team's extensive experience could be a resource for the Staff in crafting future enhancements to the existing process.

We look forward to continuing to work with the Pueblo County staff, Planning Commission and County Commissioners and are happy to meet to discuss further.

Sincerely,



Javier De La Garza
Senior Development Director



August 5, 2021

To: Pueblo County Planning Department
Attention: Chairwoman Hatton & Planning Commissioners
Electronically transmitted to: planning@pueblounty.us

Re: *Opposition to the Proposed Amendments to the Pueblo Regional Development Plan (Comprehensive Plan) and Pueblo County Code (Zoning Ordinance) Regarding Solar Energy Facilities*

Dear Chairwoman Hatton and the Pueblo County Planning Commissioners.

As a Pueblo County resident and owner of Main Electric, a local business with experience in utility scale electrical construction, I want to state my strong opposition to the draft Solar Ordinance. **Please defeat this proposed ordinance and have a robust stakeholder engagement process with all impacted parties to find the right solution for Pueblo County.**

The current process already works. It has attracted multiple solar installations, which has created hundreds of good paying jobs, generated tax revenue and, helped Pueblo alter its image across the country. However, the rules in this proposed ordinance will severely limit future solar installations within Pueblo County and just push solar developers eastward into other counties. Our county will lose out on the associated tax revenue, landowner lease payments, construction dollars, and other supply chain and induced economic benefits that come from renewable energy projects of this size. My business is a prime example of how these projects not only generate tax revenue, but also benefit the local economy by hiring locally owned businesses with local employees. More solar projects mean more local job creation in this industry.

The ordinance is so restrictive that under its proposed rules, most of the existing solar installations in the county would not be allowed. The large projects at both Xcel's Comanche Powerhouse and Evraz's Steel Mill would fail to qualify.

Moreover, the lack of industry engagement during the drafting of this ordinance is a signal to this industry, and others, that Pueblo is not open for business. Our community should be working with those interested in investing in our community with Green Energy, not overly prescribing them out of existence especially in the wake of the economic devastation of the pandemic in communities like ours.

Please defeat this proposed ordinance and have a robust stakeholder engagement process with all impacted parties to find the right solution for Pueblo County.

Respectfully,

Main Electric, LTD.

Michael S. McCafferty, PE
President

August 5th, 2021

Planning Department
Attention: Chairwoman Hatton & Planning Commissioners
Electronically transmitted to: planning@pueblocounty.us

*Re: Opposition to the Proposed Amendments to the Pueblo Regional Development Plan (Comprehensive Plan)
and Pueblo County Code (Zoning Ordinance) Regarding Solar Energy Facilities*

Dear Chairwoman Hatton and the Pueblo County Planning Commissioners,

As a Pueblo County property owner, my family wants to express our strong opposition to the proposed amendments to the Pueblo Regional Development Plan ("Comprehensive Plan") and Pueblo County Code ("Zoning Ordinance") regarding solar energy facilities. As such, I ask that you **defeat this proposed ordinance and have a robust stakeholder engagement process with impacted landowners to find the right solution for Pueblo County.**

While there are many alarming elements to the proposed amendments, as a significant landowner in Pueblo County and a lessor to a solar developer, our predominant concern is how **these overly restrictive solar amendments would hamper our ability to use our land as we see fit; thereby directly infringing on our property rights.**

These proposed ordinance changes would place unfair restrictions on our land, especially when compared to adjacent uses. Our property is located next to multiple solar projects, the Comanche Generating Station, and the EVRAZ steel facility. Developing solar on our property would absolutely be in alignment with the surrounding uses, but the requirement for solar projects to be more than a mile from Development Action Areas, Critical Production Areas, and existing solar facilities would eliminate our ability to use our property in accordance with similar adjacent uses. These one-mile buffers serve no discernible purpose other than advantaging just a few landowners while hurting the rest.

As a landowner who is interested in expanding solar in Pueblo County, there are many ways this land could be used, and by far, utilizing it as a site to generate clean energy is the best possible outcome for Pueblo County, the state of Colorado, and our community. The solar industry represents constructive growth and development for Pueblo County – in significant annual tax revenue and hundreds of construction jobs. All these gains come with a passive, low-impact, and temporary use of our property.

These proposed ordinance changes will push development into other counties, and Pueblo County will lose out on significant economic gains.

I strongly encourage you to **defeat this proposed ordinance and have a robust stakeholder engagement process with impacted landowners to find the right solution for Pueblo County.**

Thank you,

Debbie Mitchek

Debbie Mitchek



Colorado Solar & Storage Association

1536 Wynkoop St
Suite 104
Denver CO, 80202

August 4, 2021

Pueblo County Planning Commission
215 W. 10th Street
Pueblo, Colorado 81003

Dear Commissioners,

I write today to express my strong objection to the proposed changes to Pueblo Regional Development Plan (Comprehensive Plan) and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities as outlined in the Pueblo County PC Solar Memo and Attachment B. Section 17.168.050.

Given the long and fruitful history of solar development in Pueblo County, it is frustrating that the County did not undertake a robust stakeholder engagement process with the industry. Instead, a one-size-fits-all solution advocated by an out-of-state consultant was chosen as the path forward.

These proposed changes will significantly deter solar investment in Pueblo County. Nearly all of the changes proposed will make it difficult to site solar facilities within the county.

For example, the proposed changes will greatly increase the work on the Planning Department. Current rules are just 3 pages long, while the proposal has mushroomed to 19 pages. Even with 19 pages, many of the items are still very subjective. The solar industry does not see how this is beneficial to staff or developers.

Additionally, many of the restrictions are arbitrary. For example, why are there limits on project size when Pueblo County has many landowners with property far exceeding those sizes? Why are there 1-mile barriers between projects or municipal boundaries?

Some of the other recommendations are just contrary to good land use principles. Such as the lot coverage restrictions of 65%. The impact will be to simply spread out the solar development across more of the County, resulting in a checkerboard-like visual. The lot coverage restrictions and 1-mile barriers would simply mean more electrical infrastructure buildout like poles, wires and transformers, further cluttering the landscape.



Colorado Solar & Storage Association

Finally, many community solar projects are 25 acres or less and connected to the distribution system, but the new ordinance would require them to be located near transmission and undergo a very expensive permitting process. Given alternatives, it is unlikely Pueblo County would attract these smaller and more community-focused projects.

On behalf of the solar industry, please table this proposed ordinance and instead have a robust stakeholder engagement process with solar developers to find the right solution for Pueblo County.

Sincerely,

Mike Kruger
President & CEO
Colorado Solar and Storage Association

August 6, 2021

Members of the Pueblo County Planning Commission
Pueblo County Planning & Development Department
215 W 10th St
Pueblo, CO 81003

RE: Proposed Utility Scale Solar Regulations for Future Projects

Dear Members of the Planning Commission and Planning & Development Department Staff,

I wanted to reach out to voice my opposition to the proposed utility scale solar regulations.

Utility-scale solar projects provide an opportunity for cattle ranches and other agriculture business to maintain their agricultural land use status and the eco-system that depends on it. Dedicating a small portion of a cattle ranching operation to solar can provide the necessary additional income for ranchers to survive the existing and future hardships that comes with ranching. Every year we are confronted with fire, drought, floods, pestilence, new taxes, old taxes, estate taxes, inflation, anti-beef advocates and state and federal politicians that think food comes from supermarkets and irrigation water is better utilized by urban developers. All the above plus numerous other issues plague the rancher making it harder and harder for ranch families to make it.

Pueblo County Ranchers and Farmers don't have alternate sources of income like the oil and gas opportunities benefiting parts of Colorado. But utility scale solar can provide some of the same economic benefits to ranchers and farmers thereby aiding in the preservation of agricultural lands and its environmental assets. Without opportunities like utility scale solar, agricultural landowners could be forced to turn to subdividing family lands in a time of need guaranteeing more environmental losses.

Utility-scale solar projects are a *temporary* use. After a solar project is no longer in use, the land can and will be restored to its previous agricultural condition. During the solar project's lifetime, the project can co-exist with typical agricultural operations, the environment and wildlife habitat. There are few industries or project development opportunities that provide this type of low impact, long-term benefit to agricultural lands, agricultural landowners, and the environment, especially in Pueblo County.

While some of the newly proposed regulations seemingly are reasonable, many points were naive in understanding all the elements and conditions that make up Pueblo County. This limited understanding could have negative consequences to the environment, competitive bidding, even driving away responsible solar projects. Overreaching regulations may not be advisable for or applicable to Pueblo County's private lands, its environment, and the marketability of future viable projects for the County. The existing Pueblo County 1041 permit standards seem adequate in responsibly regulating while encouraging this type of Solar development.

Walker Ranches is designed not just for modern cattle operations, but for providing open space and conservation benefits to the Pueblo-area wildlife, and all the Pueblo-area residents. The thoughtful land use planning we've developed is intended to benefit not just the family ranch, but also the underlying land and natural resources of the area, including significant wildlife habitat. Walker Ranches has participated in both private and County-approved land use planning ranging from utility easements, transmission line development and conservation easements. We have always found a way to balance land stewardship with the needs of the community and the utilities that serves it. The current Pueblo County 1041 permit standards have encouraged responsible solar site planning on agricultural lands. Any new utility scale solar development standards should have in-depth input by developers, landowners, the environmental

community, and Pueblo County. This detailed involvement of *all parties can benefit all parties* but only if *all parties* have an opportunity to engage equally in the process.

I encourage the Planning Commission and Planning Staff to take the necessary time to consult with landowners, the agricultural and environmental community in Pueblo, and the solar industry prior to developing any new regulations. New regulations should only be needed for solving an existing or past problem and in this case only when applicable to Pueblo County utility-scale projects.

I am not in favor of quick decisions that could add burdensome regulations and expensive requirements that could restrict my rights as a private Ag. landowner to timely and economically pursue solar projects. Many times, over regulating can be the cause of the problem especially if a problem doesn't seem to currently exist.

As the old saying goes, **"if it ain't broke don't fix it".**

Thank you for your time and consideration on this matter, and I look forward to following up with your representatives and team in response to this letter.

Regards,

Handwritten signatures of Gary R. Walker and Georgia A. Walker in blue ink. The signature of Gary R. Walker is on the left, and the signature of Georgia A. Walker is on the right, written in a cursive style.

Gary R. Walker and Georgia A. Walker

Landowners in Pueblo County

From: [Lucinda Perry](#)
To: [Howard, Carmen](#); [planning1](#)
Subject: Proposed County Solar Ordinance Draft
Date: Monday, August 9, 2021 5:49:45 PM

Attention: Carmen Howard, Director
Pueblo County Planning and Development
229 W 12th Street
Pueblo, CO 81003

Subject: Pueblo County Planning Commission – Proposed County Solar Ordinance Draft Public Hearing – August 18th, 2021

Dear Pueblo County Planning Commission,

I am asking you to reject the current draft proposal of the new Pueblo County Solar Ordinance. As it is written, the ordinance draft would prevent development of solar projects in many places (including within 1 mile of another solar project) and could eliminate my right as a landowner to participate in solar farm opportunities. The proposed regulations would take away my property rights to benefit from this opportunity to host a power plant on my land that will serve clean electricity to fellow Coloradoans.

Not only would my family lose the benefit we have bargained for through choosing to sign agreements to participate in solar projects, but the County would not benefit either. In addition, potentially hundreds of construction jobs would be lost due to these proposed changes.

I respectfully ask that any new regulations for utility-scale solar energy in the County consider landowner rights. The regulations for solar farms as proposed should be revised to be consistent with regulations for other proposed land uses in the County. The proposed regulations infringe upon the property rights of my family and many others who have chosen to participate in solar projects through leasing or selling land. Please consider rejecting the proposed solar ordinance. We ask that we be invited to participate in a mutually agreeable draft ordinance so that both landowners and the County benefit from these opportunities.

Thank you for your time and consideration.

Sincerely,

Dean R. Perry
Lucinda J. Perry

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From: [Bob Leach](#)
To: [Kiera Hatton Sena](#); [Howard, Carmen](#)
Cc: [Ortiz, Garrison](#); [Wiseman, Chris](#); [Griego, Epimenio](#)
Subject: Proposed new solar ordinance
Date: Thursday, July 29, 2021 9:48:41 AM

Kiera & Carmen,

For the past 10 years or so, I have been involved representing some Pueblo County landowners in their negotiations with solar companies on options and leases for proposed utility scale solar developments. Two of these proposed developments have come to fruition. One is the Comanche Solar PV plant, which is a 120 MW plant located on approximately 1100 acres. It has been online and producing for approximately five years. The second is a portion of the 240 MW Bighorn Solar Plant, which is currently under development and scheduled to come online producing electricity within the next few months. You will recall that the Bighorn Solar Plant is the plant being developed as part of the decision by Evraz to locate their \$500 million long rail mill in Pueblo. Most of that plant is constructed on land owned by Evraz, but approximately 550 acres is located on property owned by a family that I represent.

It is my strong belief that a major modification to the County's ordinances such as this should not be implemented without including, in the process, those that will have to comply with these regulations. So, while I have been associated with the solar industry in Pueblo for the past decade, the true experts are the electric utility companies and the solar development companies that design, construct, purchase power from, and operate these plants. But a quick review of the proposed ordinance by me raised some substantial yellow and red flags. My initial concerns are as follows:

1. The draft ordinance proposes that utility scale solar plants should be located on "Brownfields". Other than at the Pueblo Depot reuse facility (PuebloPlex), there are very few "Brownfields" in Pueblo County. The economically viable location for solar plants is driven by existing power transmission lines and substations, and not the location of landfills & "Brownfields". Also, I would imagine that developing on a Brownfield site introduces a whole new element of cost and liability to the solar development.
2. I noticed a clause requiring the permit to be reviewed by the county after 20 years. I believe that that clause introduces an additional risk factor to solar developers regarding what new things they might have to comply with when the permit is reassessed at the end of 20 years. This could potentially make the proposed development unfinanceable. No financing for development, no plant.
3. Decommissioning. This is a complex issue, and perhaps some regulation would be appropriate for assurance of decommissioning of plants. However, my assessment of the draft ordinance is that what is written is overly stringent and doesn't allow any credit for salvage value of components at decommissioning. I would suggest that if it is felt that there is a need for the County to get involved with decommissioning language, it should be done so with the input of the solar development community. I would think that they could come up with a menu of different possible ways to assure decommissioning that wouldn't be overly burdensome.
4. I saw several items in the minimum development and performance standards that I think create substantial problems for the industry. They include the maximum acreage provision & the 65% maximum of project area to be covered with solar panels. I believe that other problematic language includes the minimum 1 mile separation from existing or permitted plants, city limits & Development Action Areas. Also, the minimum setbacks from other parcels. I also believe that the screening requirements, including planting of rows of trees, building of berms, and requiring 75% visually solid fencing are also excessive, expensive and in most cases, not necessary.

Incidentally, I believe that there are at least three elements to this proposed ordinance that would have prohibited the approval/construction of the Bighorn Solar Plant in its current location. Those are the 65% maximum panel coverage, 1 mile separation from an existing

plant, and the 1 mile separation from the city limits requirements. That is in addition to several other design requirements that would have driven costs of the plant which would have meant higher proposed electrical prices to Evraz. Had the Bighorn solar plant not been approved in its current location, with a power cost structure acceptable to Evraz, Pueblo could very well have lost the long rail mill to another state. And along with it, the retention/expansion of 1000 good paying steelworker jobs.

While I agree that utility scale solar should not be placed immediately adjacent to housing, it seems to me that what we are proposing is a one-size-fits-all regulation that would impose requirements where they are not at all needed. We already have the 1041 permit process and a stormwater permitting process that are required to develop these plants. It seems to me that if, as a community, we think it's necessary to further regulate this industry, we should first ask what the problems are that we are trying to fix. And not come up with solutions for nonexistent problems.

I think that most of us would agree that the cluster of utility scale solar facilities locating in Pueblo County is a good thing. We have been providing a tremendous amount of green energy construction jobs. The property tax base has grown substantially because of these solar plants. Between the Vestas wind tower factory and all of the solar facilities that have come into Pueblo County, we are developing a reputation in the green energy industry that is an attraction to other green energy jobs. But my concern is that we don't kill the goose that lays the golden egg. I believe that the last thing that we would want to do is to provide incentives to the electric utility companies and the solar development companies to locate their plants and jobs and tax revenues elsewhere. But I believe that we are very much in danger of doing just that with this proposed ordinance.

Please let me know if you have any questions, and feel free to forward this email to other Planning Commission members, staff members, etc., as you deem appropriate. Thanks.

Bob

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Bob Leach
RWL25, LLC
31000 East US Hwy 50
Pueblo, CO 81006
[719.250.1555](tel:719.250.1555) (c)
RWL25pueblo@gmail.com

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Bob Leach
RWL25, LLC
31000 East US Hwy 50
Pueblo, CO 81006
[719.250.1555](tel:719.250.1555) (c)
RWL25pueblo@gmail.com



1800 Larimer Street
Denver, CO 80202

July 30, 2021

Carmen Howard
Director, Pueblo County Planning & Development
229 West 12th Street, Pueblo, CO, 81003

RE: Xcel Energy Comments to Pueblo County's Proposed Solar Energy Code & Comprehensive Plan Amendments

On June 23, 2021, the Pueblo County Planning Commission discussed proposed changes to the Pueblo County Code and the Pueblo County Comprehensive plan regarding utility scale solar facility development. As a regulated utility, Xcel Energy appreciates the need for policies and codes to better facilitate development. However, the proposed changes as written will negatively impact Xcel Energy as a purchaser of electricity from utility scale solar projects in Pueblo County.

On March 31, 2021, Xcel Energy filed its Electric Resource Plan with the Colorado Public Utilities Commission. The Plan calls for 1,600 MW of utility scale solar. If approved, it is anticipated that Pueblo County could be an attractive site for solar developers responding to the request for proposal to build out a portion of this needed electric resources. However, if the proposed code changes are adopted, developers would most likely look at other parts of the State with policies more favorable to the development of utility scale solar. This would be a loss for Pueblo County as well as for Xcel Energy and its ability to capitalize on the hard work we have done and investments that have already been made in the County.

To provide an example of how an area benefits economically from solar development, one need look no further than the study performed by the Business Research Division of the Leeds Business School at the University of Colorado, Boulder. The study was performed for the Xcel Energy Colorado Preferred Energy Plan (CEPP), approved by the Colorado PUC in 2018. The study estimated Pueblo County would benefit from the CEPP that included large scale utility solar, both in the short term (2018-2023) and long term (2018-2040) through job creation, tax revenue, an increase in GDP, and an increase in disposable income.

The below summary includes Xcel Energy's initial thoughts and comments on the proposed changes. As we continue to assess the proposed changes, we anticipate having further comments and concerns to share and discuss with you.

New Pueblo County Code Section 17.168.050. Solar Energy Facilities
Potential Impacts to Electrical Transmission Infrastructure

Xcel Energy and other electrical utilities typically build new substations and transmission lines to interconnect new solar projects to the existing electrical transmission system. It is unclear to

what extent the proposed regulations would apply to utility owned substations and transmission lines that are associated with, but distinct from solar projects owned and operated by solar developers.

Utility scale solar projects typically include a solar developer owned 'collector substation' which collect the electricity generated by the solar project. The 'collector substation' is connected to a 'switchyard' via a 'generation interconnection' transmission line. The 'generation interconnection' is owned by the solar developer, and the 'switchyard' is owned by the utility. Finally, a new utility owned transmission line connects the 'switchyard' with existing utility owned transmission lines. Recently, Xcel Energy permitted two switchyard and transmission interconnection projects in Pueblo County which were associated with utility scale solar projects. The solar developer obtained County permits for their solar projects, including their collector substations, solar panels, and other associated equipment. Xcel Energy obtained County permits for our switchyard and transmission interconnections.

The regulations appear to be intended for solar projects only, and not necessarily for utility facilities. If the regulations are not meant for utility facilities, it is Xcel Energy's preference that the regulations more clearly differentiate between solar projects and utility infrastructure.

Potential Impacts To Solar Generation Facilities

5. Utility-Scale Solar Facility Development and Performance Standards.

A. Construction and Operations.

i.

- a) The minimum Project Area of a Utility-Scale Solar Facility shall be more than ten (10) acres, and the maximum Project Area no more than 1,500 acres.

Limiting Project Areas to 1,500 acres will limit project design flexibility as the size and configuration of a given project is often driven by the size and shape of real estate parcels that are available for development. A 1,500-acre limit would likely result in a greater number of smaller facilities in place of fewer larger facilities, essentially creating sprawl. This size limit appears to be arbitrary because the size of any given facility should be dependent on its setting, site-specific environmental conditions, its relationship to existing and planned land uses and landowner preferences.

Creating an arbitrary limit could result in a "taking" of private property to the extent that it limits a landowner's ability to profit from their land. For example, a landowner might own much more than 1,500 acres of land that they desire to lease or sell for solar development.

Many developers have already invested heavily in developing solar projects in the County without knowledge or expectation of the newly proposed limitations, which would significantly increase project costs and energy pricing.

b) The percentage of Solar Photovoltaic Panel Coverage in relation to the Project Area shall not exceed 65%.

A Project Area of 1,500 acres could accommodate a project of approximately 180 MW to 250 MW in size depending on slopes, vegetation cover, floodplains, wetlands and other environmental conditions. A 65% limit on land cover would reduce solar output to about 120 MW – 160 MW. These reductions will reduce economies of scale, inflate land costs and increase overall development costs and energy production costs, and customers' energy bills.

c) Such Solar Facilities shall be located greater than one (1) mile from any city or town limits.

d) Such Solar Facilities shall be located greater than one (1) mile from Development Action Areas

e) Such Solar Facilities shall be located greater than one (1) mile from the boundary of these Metro Districts:

- o Pueblo West

- o Colorado City

f) Solar facilities shall be more than one (1) mile from an existing or permitted solar facility.

The one-mile distance requirement is arbitrary and would likely result in unintended consequences. Like the 1,500 acre and 65% limits, it would result in sprawl of multiple smaller facilities creating more regional environmental impacts. It would also likely increase the amount of new electric transmission lines needed to interconnect dispersed solar facilities, thus causing additional visual impact.

Other Comments

There are inconsistencies between the draft code amendment language listed under paragraph 5 performance standards, and in the June 11, 2021 Berkeley Group memo to the Planning Commission.

1. **Project Size Limit:** Page 4 of memo discusses Comprehensive Plan amendments to address solar energy facilities. In its recommended amendments for large solar facilities, it cites a total size of no more than 2,500 acres. This recommendation is inconsistent with the 1,500-acre limit in the code amendment recommendation. While the 2,500-acre size also creates an arbitrary threshold, it would be somewhat less burdensome than the smaller limit.
2. **Proximity to Transmission Lines:** The memo also notes that solar facilities should be within one mile of existing transmission lines. This distance criteria calls for additional clarification as noted here. Not all transmission lines have capacity to accept additional energy injection. So just because a solar project is within a mile of a transmission line, it might be necessary

to interconnect and inject into another line that could be farther from the solar facility. Another clarification is that the location of a transmission line, even if it has capacity to accept additional energy injection, does not necessarily limit the amount of new transmission required to interconnect the solar facility because the point of interconnection occurs at an electric substation or switchyard. In some cases, a new substation can be developed in proximity to a solar facility to minimize the amount of new transmission required, but it's not always possible or economic to do so.

Also, by requiring solar farms to be within 1-mile of transmission lines, solar development opportunities would be severely limited to only those locations adjacent to existing lines. Not only would this restriction limit the number and size of new solar projects, it would prevent the execution of more than 10 solar farms that are currently under development in locations that are farther than 1-mile from existing transmission lines. Adopting such draconian measures now, after the solar industry and landowners have been developing projects for many years would have a chilling effect on the solar market, including property tax revenues

The comments and concerns expressed above reflect Xcel Energy's initial thoughts and on the proposed changes. As we continue to assess the proposed changes, we anticipate having further comments and concerns to share and discuss with you. Xcel Energy recognizes Pueblo County as a vital partner as we transition to renewable forms of energy, meeting the energy needs of the State of Colorado. We look forward to further discussions.

Thank you,

Carly Rowe
Manager, Siting and Land Rights
Public Service Company of Colorado (dba Xcel Energy)

Ashley Valdez
Area Manager
Public Service Company of Colorado (dba Xcel Energy)

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities
Date: Sunday, August 8, 2021 6:58:43 PM

From: Thomas Blomster <blomster.dmamusic@gmail.com>
Sent: Friday, August 6, 2021 5:33 PM
To: planning1 <planning@pueblocounty.us>
Subject: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Planning Commission,

I am aware of the new, proposed draft solar amendments for Solar Energy Facilities for our county. I have found that these amendments are of such importance and complexity, and would like more time to review them. I ask for at least another 60 days to sufficiently review and improve the amendments. Thank you for your attention to this matter.

Sincerely,

Thomas A. Blomster

--

Thomas A. Blomster, Music Director
Colorado Chamber Orchestra and Opera
www.cochamberorchestra.com
blomster.dmamusic@gmail.com
Cell: 970-690-5512

From: [Wallingford-Ingo, Gail](#) on behalf of [planning1](#)
To: [Howard, Carmen](#)
Subject: FW: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities
Date: Tuesday, August 10, 2021 2:10:38 PM

From: Nick Perugini <nick.perugini@solarisenergy.com>
Sent: Tuesday, August 10, 2021 1:31 PM
To: [planning1](#) <planning@pueblocounty.us>
Subject: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Subject: Pueblo Regional Development Plan and Pueblo County Code (Zoning Ordinance) Amendments Regarding Solar Energy Facilities

Dear Planning Commission,

We are aware of the new, proposed draft solar amendments for Solar Energy Facilities for your county. As a nationwide commercial-scale solar developer, financier, owner, and operator we have found that these amendments are of such importance and complexity, that we would ask for more time to review them. We would ask for at least another 60 days to sufficiently review and improve the amendments.

Thank you for your attention to this matter.
Sincerely,

Nick Perugini
Vice President, Partners and Projects
[Solaris Energy](#) | [Public Benefit Corporation](#) | [1% for the Planet Member](#)
430 North College, Suite 440, Fort Collins, CO 80524
M: 303.817.3104
O: 970.279.3137



www.SolarisEnergy.com | www.AtmosphereConservancy.org
Connect on Social: [Facebook](#) | [LinkedIn](#)



Devin Moeller
Renewable Energy Program Manager
Devin.moeller@blackhillscorp.com

105 S Victoria Ave.
Pueblo, CO 81005
P:719-546-6472

August 10, 2021

Pueblo County Planning and Zoning commission board
215 W 10th St.
Pueblo, CO 81003

Dear Board Members,

I recently reviewed the proposed Pueblo County zone ordinance, that addresses solar facilities. I appreciate the County's desire to appropriately regulate the siting, construction, and decommissioning of solar projects because of the large amount of agricultural industrial or commercial land required to accommodate these projects. While it's true that thoughtful regulations must consider all these aspects, they should also consider the economic impact and the unintended consequences to the community and to Pueblo County. Black Hills Energy is the County's primary electric provider and energy partner. While we are not directly impacted by these regulations, in the spirit of partnership, and as the renewable energy program manager for Black Hills Energy I am compelled to share our concern about the regulations as proposed.

The 65% coverage requirement is not necessary. In the presentation the consultant equated medium and large scale solar projected to impermeable surface. In fact many photovoltaic systems move to track the sun resulting in panels being consistently angled. Those that do not track are typically installed at a slant not only to maximize exposure, but also to allow snow to slide off easily. The 65% coverage requirement is unnecessary and makes medium and large-scale projects unattractive Pueblo because landowners will have to commit more acres to accommodate the requirements. This will likely lead to higher lease costs, ultimately making these projects less viable, and sending developers to site projects in more accommodating communities.

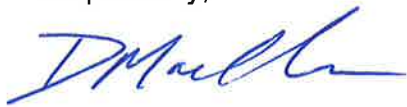
The requirement to leave one mile between these projects seems unnecessary. While it is easy to suggest that the entire county will be covered by solar panels, the reality is that the county will limit development of the most advantageous and economically attractive and productive sites in the county and eliminate the opportunity to site some projects in our region.

As proposed this ordinance seems to contradict the direction set by the state to reduce carbon emissions and increase the penetration of renewable energy. Black Hills Energy, along with many other utilities have committed to a voluntary reduction of carbon emissions by filing a clean energy plan. The only way this can be achieved is through

utility scale renewable energy projects. The regulations you are considering may unnecessarily restrict solar development. This does not set the tone of "open for business" that the county is working so hard to achieve.

This is not an exhaustive list of concerns, but examples for you to consider. I encourage you to reconsider the regulations that have been proposed. It may be helpful to encourage additional stakeholder engagement. Thank you for the Opportunity to share our concerns. As your energy partner, we are always happy to offer guidance and support for the important work that you do

Respectfully,



Devin Moeller

From: tammy.bregar@aol.com
To: [planning1](#); [Howard, Carmen](#)
Cc: fred.bregar@aol.com
Subject: Pueblo County Solar Regulations - Proposed Ordinance
Date: Wednesday, August 4, 2021 7:06:01 AM

Pueblo County Commissioners, Planning Department

This email is regarding upcoming proposed changes to Pueblo County Solar Regulations.

We are residents and landowners in Pueblo County.

As we move toward our state's goal of achieving 100% renewable energy by 2040 it is important to minimize adverse effects to surrounding properties and the community. These adverse effects can be minimized by utilizing property that is best suited for solar facilities. With that in mind, we respectfully ask that you consider the following points regarding solar facilities in our community.

There are areas in Pueblo County that are well-suited for larger solar facilities. These areas may include:

- <!--[if !supportLists]-->○ <!--[endif]-->areas that are less densely populated,
- <!--[if !supportLists]-->○ <!--[endif]-->areas that have less potential for residential or growth,
- <!--[if !supportLists]-->■ <!--[endif]-->there are areas in Pueblo County that have limited water resources for residences and farming with no access to water taps or shares of water
- <!--[if !supportLists]-->○ <!--[endif]-->areas that are near existing substations that can be used to transmit the power generated by the solar facility

The proposed restrictions below do not make sense for areas that are well suited for larger solar facilities and could hinder the ability to achieve 100% renewable energy in our state.

- Limiting the size to 2,500 acres - this does not make sense if in a well-suited area and more land is available on the property.
- Requiring solar projects to be 1 mile apart – **if the property is in a well-suited area, this will greatly limit the number of solar facilities and may increase the need for them to be built in less suitable areas**
 - This would also require more substations to be built
- Lot coverage limitation of 65% - having setbacks is needed, but 65% is excessive and will take more land to generate the same electricity.

As residents, landowners, and businesspeople of Pueblo County, we ask that you **please defeat the proposed ordinance as it will adversely affect landowners and the Pueblo County community.**

Thank you,
Fred and Tammy Bregar

17.168.050 Solar Facilities.

Section contents:

- A. Purpose.
- B. Intent.
- C. Zoning districts.
- D. General Provisions.
- E. Application Requirements.
- F. Minimum Development and Performance Standards.
- G. Special provisions for Battery Storage.
- H. Special provisions for Substations.
- I. Decommissioning and Reclamation.
- J. General Conditions.

In addition to other requirements of the Pueblo County Code and 1041 Permit process, applications for a large scale solar facility (i.e., medium-scale and utility-scale) shall be subject to the following provisions:

- A. Purpose. The purpose of these application requirements and performance standards regarding Solar Facilities is to establish requirements for construction and operation of solar facilities (excluding small-scale solar facilities) and to provide standards for the placement, design, construction, monitoring, modification, and removal of such facilities; address public safety, minimize impacts on scenic, natural, and historic resources; and provide adequate financial assurance for decommissioning.
- B. Intent. The regulations set forth herein are intended to provide a consolidated list of requirements for the proper consideration of these project applications. If regulations in other sections are inconsistent with those set forth herein, then the more restrictive requirement shall prevail. To the extent possible, all other zoning and land development requirements are consistent with those presented in this section.
- C. Zoning districts.
 - 1. Solar facilities shall be subject to a 1041 Permit as a primary use in zoning districts A-1 and P-1.
 - 2. Solar facilities should locate on brownfields, County-owned capped landfills, or near existing industrial uses, where feasible but not within Development Action Areas.
 - 3. Battery facilities shall be subject to a 1041 Permit. They shall be permitted as
 - a. An ancillary use to solar facilities in A-1 and P-1 zoning districts.
 - b. A primary use adjacent to other energy generation facilities and substations.
- D. General Provisions.
 - 1. Term of Solar Facilities. A 1041 Permit for a Solar Facility may be approved for the proposed operational life of a facility, but not to exceed 40 years. The permit may be reviewed after 20 years with specific focus on the project's status and conditions. The Permit may also be renewed during this review for an additional period to align with the operational life of the facility.

2. **Project Area.** The area included in the Development Plan should include the project boundary, solar facility, PV pods, and buffer zones. The Project Area may include multiple parcels and portions of parcels, which may be leased parcels or leased areas of parcels, and, for purposes of this section, the sum of this area shall be the Project Area and the boundaries of this area shall be the Project Boundary. The purpose of the Project Area is to accommodate a single Solar Facility. Furthermore,
 - a. All parcels and portions of parcels within the Project Area, when taken collectively, may or may not form one solid area (e.g., when separated by streets), and may form a collection of areas and some areas may have holes or voids (e.g., when a parcel is not included in the 1041 Permit but is surrounded by properties that are included in the permit). The Project Boundary shall include the boundaries around these holes or voids and shall also run along streets within the Project Area;
 - b. The area within the Project Area shall be considered a single Solar Facility. However, any portion of the Project Area shall not be more than one-half (1/2) mile from the remainder of the Project Area, or else such portion shall be considered a separate Solar Facility;
 - c. The equipment within a Solar Facility shall include photovoltaic (PV) panels, which are often organized into groupings referred to as PV pods, and may also include charge regulators, inverters, and various accessory uses and structures such as parking areas and fencing. The equipment within Utility-Scale Solar Facilities, but not Small-Scale or Medium-Scale Solar Facilities, may also include substations, which are also referred to as transformers, and Battery Energy Storage Facilities;
 - d. A Buffer Zone within the Project Area shall be established for the purpose of mitigating the effects of the Solar Facility upon surrounding properties and the community at large, and shall be an area reserved for open space, landscaping, or berming, and which shall be located between the Project Boundary or Official Street Line, if applicable, and the required Project Boundary Setback.
3. **Pre-application meeting.** Schedule a pre-application meeting with the Zoning Administrator to discuss the location, scale, and nature of the proposed use and what will be expected during that process.
4. **Comprehensive Plan Review.** A review by Planning staff of Solar Facility proposals to determine if their general or approximate location, character and extent are substantially in accord with the Pueblo Regional Development Plan (Comprehensive Plan) or part thereof. This review is to be included in the staff report for the Board of County Commissioners (BOCC) consideration.
5. **Neighborhood Meeting (not applicable in P-1).** A neighborhood meeting shall be held prior to the public hearing with the BOCC to give the community an opportunity to hear from the applicant and ask questions regarding the proposed project.
 - a. The applicant shall provide a copy of any letter or notice to the Zoning Administrator prior to sending out to the public to ensure information is complete and correct.
 - b. The applicant shall inform in writing: 1) all owners of record of lands located

Commented [Cockrell1]: Will battery storage facilities be valuable in medium-scale (community solar) facilities. You prohibit them here.

within 1,000 feet of the property as indicated on the certified list of such owners provided with the application, 2) the Zoning Administrator on all notified property owners, and 3) the Zoning Administrator of the date, time, and location of the meeting, at least seven but no more than 14 days, in advance of the meeting date.

- c. The date, time, and location of the meeting shall be advertised in the official County newspaper by the applicant, at least seven but no more than 14 days, in advance of the meeting date.
- d. The meeting shall be held within the County at a location open to the public with adequate parking and seating facilities which may accommodate persons with disabilities.
- e. The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant, and provide feedback.
- f. The applicant shall provide to the Zoning Administrator a summary of any input received from members of the public at the meeting and proof of advertisement of the meeting.

E. Application Requirements. A complete 1041 Permit application shall include:

- 1. Owner Authorization and Information. Documentation of land ownership and/or legal authority to construct all properties within the Project Area.
- 2. Solar Facility Narrative. A narrative giving a general overview of the Solar Facility, which includes:
 - a. The owner and the operator of the proposed Solar Facility and the applicant,
 - b. The intended utility company to interconnect to the Solar Facility,
 - c. The current uses and physical characteristics of the Project Area and the surrounding area,
 - d. Approximate Rated Capacity of the solar facility project,
 - e. Type and location of interconnection to electrical grid as coordinated and pre-approved with the appurtenant Power Utility Commission (PUC),
 - f. Approximate number of panels and representative types,
 - g. The Project Area and Solar Photovoltaic Panel Coverage expressed in acres.
 - h. An inventory with description of all proposed structures and uses including Battery Energy Storage Facilities, inverters, substations, and all structures over 60 ft. in height.
 - i. A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.
- 3. Concept Plan. In addition to the Development Plan, a Concept Plan of the Project Area consisting of aerial imagery of the Project Area superimposed with the Project Boundary and the general location and arrangement of screening, buffer zones, fencing, tree preservation, structures, the proposed PV panels, driveways and entrances, wildlife

corridors, floodplain, electric lines and overhead utility lines, and connections to the electrical grid, and, in addition, labeled with the distances of structures to the property lines. The intent of the Concept Plan is to be a visual summary of the project. Typical elevations of structures shall be included with the Concept Plan.

4. Development Plan (requirements may be modified by the Zoning Administrator for projects in the P-1 District). The Development Plan, certified by a licensed design professional registered in the State of Colorado (an architect, engineer, or similar professional), shall include the following:
 - a. A legal description of the subject parcels.
 - b. The Project Area and Solar Photovoltaic Panel Coverage expressed in acres.
 - c. The Project Boundary, property lines, lease lines, Official Street Line, and easements within the Project Area.
 - d. Setback lines.
 - e. General location of driveways, parking and entrances onto streets and accompanying site distance reports for such entrances.
 - f. Locations and dimensions of all existing and proposed buildings and structures, including solar panels, charge regulators, inverters, substations, Battery Energy Storage Facilities, structures over 60 feet in height, connections to the grid, fencing, and dwellings and associated accessory structures,
 - g. Preliminary sketches of structure elevations depicting the general style, size, and exterior construction materials in sufficient detail to exhibit the relative compatibility of the proposed development with the character of the neighborhood.
 - h. Location of exterior lights indicating area of illumination and foot-candles.
 - i. Visual Impact Analysis (not applicable in P-1 and may be waived by the Zoning Administrator for Medium-scale solar facilities). A visual impact analysis demonstrating project siting and proposed mitigation, if necessary, so that the solar facility minimizes impact on the visual character of the surrounding area.
 - j. The applicant shall provide accurate, to scale, photographic simulations showing the relationship of the solar facility and its associated amenities and development to its surroundings. The photographic simulations shall show such views of solar structures from locations such as property lines and roadways, as deemed necessary by the County to assess the visual impact of the solar facility.
 - k. The total number of simulations and the perspectives from which they are prepared shall be established by the Zoning Administrator after the pre-application meeting.
5. Environment Impact Assessment (may be waived by the Zoning Administrator for the P-1 District or for Medium-scale solar facilities).
 - a. Environmental inventory and impact statement regarding any site and viewshed impacts, including direct and indirect impacts to national or state forests and grasslands, national or state parks, County or city parks, wildlife management areas, conservation easements, recreational areas, or any known historic or cultural

Commented [Cockrell12]: I would support this as written

resources within three (3) miles of the Project Boundary.

Commented [Cockrell3]: Great.

- b. Wetlands, rivers and streams, and floodplains shall be inventoried, delineated, and mapped in order to provide baseline data for the evaluation of the current proposal and to determination of satisfactory decommissioning as required in this Chapter. The inventory and mapping of floodplain shall not be construed to allow development within regulatory flood plain areas without a flood plain development permit.

Commented [Cockrell4]: Ditto

- 6. Covenants. A copy of any subdivision and utility covenants and restrictions associated with the site.
- 7. A draft Traffic Study (may be waived by the Zoning Administrator for the P-1 District or for Medium-scale solar facilities).
 - a. Information about the proposed project's traffic impacts, modeling both the construction and decommissioning processes, to include:
 - i. The time of day that transport will occur;
 - ii. A map showing the desired primary and secondary routes on the Pueblo Network;
 - iii. Characteristics of the loaded vehicles, including:
 - 1) Length, height, width, curb weight;
 - 2) Maximum load capacity;
 - 3) Number of axles, including trailers;
 - 4) Distance between axles; and
 - 5) Vehicle registration plates.
 - iv. The number of vehicles transporting goods;
 - v. The frequency of vehicle arrival at the site; and
 - vi. The number of drivers the project will employ.
 - b. The haul route(s) must be provided and approved for construction impacts.
 - c. After review of the application's traffic impact information, the County may require a full traffic study to be accepted by an engineer approved by the County.
- 8. Construction Schedule. An estimated construction schedule.
- 9. A draft Grading Plan that limits grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms. The Plan shall include:
 - a. Existing and proposed contours;
 - b. Locations and amount of topsoil to be stripped and stockpiled onsite (if any);
 - c. Percent of the site to be graded;
 - d. An earthwork balance achieved on-site with no import or export of soil; and
 - e. Indicate natural flow patterns in drainage design and amount of impervious surface.

10. A preliminary drainage report prepared by an engineer licensed in the State of Colorado.

11. A draft Screening and Vegetation Plan to include:

- a. Ground cover species.
- b. All screening and buffering materials, type of landscaping, and elevations.
- c. Locations of wildlife corridors.
- d. Maintenance requirements for screening and ground cover.

12. A draft Decommissioning and Reclamation Plan. A detailed decommissioning and reclamation plan, certified by a licensed design professional registered in the State of Colorado, which shall include the following:

- a. The anticipated life of the project.
- b. The estimated decommissioning and reclamation cost in current dollars. The applicant shall provide a cost estimate for the decommissioning and restoration of the facility that shall be prepared by a professional engineer or contractor who has expertise in the removal of the solar facility.
- c. The method for estimating the cost. The estimate shall explicitly detail the cost without any reduction for salvage value.
- d. This estimate shall be reviewed by a third-party as approved by the County.
- e. The method of ensuring that funds will be available for decommissioning and removal. The amount of funds required shall be the full amount of the estimated decommissioning cost provided as cash escrow, surety bond, or other security approved by the County. The surety shall be updated when the decommissioning cost estimate is updated. The estimated cost of decommissioning shall be guaranteed by the deposit of funds in an amount equal to the estimated cost in an escrow account at a federally insured financial institution approved by the County unless otherwise provided for in subsection 5 below.
 - i. The applicant shall post a financial security before any building permit is issued to allow construction of the solar facility.
 - ii. The escrow account agreement shall prohibit the release of the escrow funds without the written consent of the County. The County shall consent to the release of the escrow funds upon on the owner's or occupant's compliance with the approved decommissioning plan. The County may approve the partial release of escrow funds as portions of the approved decommissioning plan are performed.
 - iii. The amount of funds required to be deposited in the escrow account shall be the full amount of the estimated decommissioning cost without regard to the possibility of salvage value.
 - iv. The County may approve alternative methods to secure the availability of funds to pay for the decommissioning of a utility-scale solar facility, such as a performance bond, letter of credit, or other security approved by the County.

Commented [Cockrell5]: I'm in favor of this, but I think our requirements should not be more restrictive than industry standards for this, especially in regard to the method for ensuring the availability of funds.

- f. The method that the estimated decommissioning cost will be kept current. The Solar Facility owner or operator shall engage a qualified individual to recalculate the estimated cost of decommissioning at an interval of every five years. If the recalculated estimated cost of decommissioning exceeds the original estimated cost of decommissioning by ten percent (10%), then the owner or operator shall adjust their fiscal security to meet the new cost estimate. If the recalculated estimated cost of decommissioning is less than ninety percent (90%) of the original estimated cost of decommissioning, then the County may approve reducing the amount of the security to the recalculated estimate of decommissioning cost.
- g. The method for decommissioning the facility and restoring the site.
 - i. Solar facilities that have reached the end of their useful life or have not been in active and continuous service for a period of six (6) months, shall be decommissioned at the Solar Facility owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the County may require evidentiary support that a longer repair period is necessary.
 - ii. The Solar Facility owner or operator shall notify the Zoning Administrator in writing of the proposed date of discontinued operations and plans for removal.
 - iii. Decommissioning shall include removal of anything above or below-ground that was constructed or erected as part of the Solar Facility to include structures, buildings, equipment, cabling and wiring, solar electric systems, electrical components, security barriers, driveways, entrances, foundations, pilings, and any other associated facilities, including all material and equipment located underground.
 - iv. Once such removal is completed, any agricultural ground upon which the Solar Facility was located shall be again tillable and suitable for agricultural or forestall uses.
 - v. Decommissioning shall also include restoration of the Project Area to pre-development conditions, including pre-development grading, to include reseeded/replanting the site to restore it to as natural a pre-development condition as possible as indicated on the Development Plan and other application materials. Re-grading and re-seeding/replanting shall be initiated within a six-month period of removal of equipment. The site shall be restored within 12 months of removal of solar facilities.
 - vi. Any exception to site restoration, such as leaving driveways, entrances, or landscaping in place, or substituting plantings, shall be requested by the landowner in writing, and this request must be approved by the BOCC.
 - vii. Hazardous material from the property shall be disposed of in accordance with federal and state law.
- 13. Additional information may be required as determined by the Zoning Administrator, such as a scaled elevation view of the property and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed project

from potentially sensitive locations as deemed necessary by the Zoning Administrator to assess the visual impact of the project, landscaping and screening plan, coverage map, and additional information that may be necessary for a technical review of the proposal.

14. Eighteen sets (11"× 17" or larger), one reduced copy (8½"× 11") and one electronic copy of the concept plan, including elevations and landscape plans as required.

F. Minimum Development and Performance Standards.

1. A facility shall be constructed and maintained in substantial compliance with the approved Concept Plan and Development Plan.
2. Locational and Dimensional Standards for Solar Facilities. The locational and dimensional standards indicated below for solar facilities are intended to mitigate the adverse effects of such uses on adjoining property owners and the surrounding area.
 - a. The minimum Project Area of a Utility-Scale Solar Facility shall be more than 10 acres, and the maximum Project Area shall be no more than 2,500 acres (no size limit in P-1).
 - b. The minimum area of a Medium-Scale Solar Facility shall be one (1) acre and the maximum area shall be ten (10) acres.
 - c. The percentage of Solar Photovoltaic Panel Coverage in relation to the Project Area is 65%. Requests for higher density may be submitted at the time of application if there is a clear justification. This request is subject to Zoning Administrator approval, but shall not exceed 80% (no limit in P-1).
 - d. Solar Facilities shall be located greater than one (1) mile from Development Action Areas.
 - e. Solar facilities shall be more than one (1) mile from an existing or permitted solar facility (not applicable for facilities within or adjacent to P-1).
 - f. Structures associated with Solar Facilities, to the greatest extent practicable, shall not be located in regulatory flood plains. Such structures shall require an approved flood plain development permit in order to be located in a regulatory flood plain.

3. Setbacks.

- a. Project Boundary Setbacks. To minimize adverse impacts upon surrounding properties and the community at large, the minimum setback of structures and uses associated with the Solar Facility to exterior parcel lines or the Official Street Line, if applicable, shall be based on the zoning district of the adjacent parcel as indicated below. Such structures and uses include fencing, PV panels, parking areas, and outdoor storage, but do not include landscaping and berming. Project Boundary setbacks shall be:
 - i. 50 feet from commercial and industrial zoned parcels, or
 - ii. 150 feet from all other parcels (unless located within the P-1 District).
- b. Setbacks from Dwellings. To minimize adverse impacts upon surrounding nearby residential uses, the minimum setback of structures and uses associated with the

Commented [Cockrell6]: Where did this come from? What are the limiting factors?

Commented [Cockrell7]: Same here. This should come from industry and medium size should be big enough to accommodate all Black Hills community solar projects.

Commented [Cockrell8]: Again, what are the limiting factors here? See my comments elsewhere. If this is about wildfire prevention, higher density of panels may help prevent weed growth. If it's about protecting prairie plant communities, we need to see the research behind the policy.

Commented [Cockrell9]: Why? I think something like this is a common element of model codes, but it still needs a full explanation somewhere. Needs a really robust justification.

Solar Facility, including fencing, PV panels, parking areas, and outdoor storage, but not including landscaping and berming, shall be not less than 500 feet from the nearest dwelling existing at the time the Solar Facility was approved by the County to the nearest Solar Facility structure (typically the fencing).

b.c. Subsequent construction on adjacent properties, regardless of zone district designation should require a setback of 500' from the neighboring solar facility.

4. Height. The maximum height of the lowest edge of the photovoltaic panels shall be 10 feet and the maximum height of the highest edge of the photovoltaic panels shall be 20 feet as measured from the finished grade. The maximum height of all other structures associated with the Solar Facility shall be 45 feet as measured from the finished grade at the base of the structure to its highest point, including appurtenances, with the exception of substations and electrical power transmission lines. The Board of County Commissioners may approve a greater height based upon the demonstration of a significant need and where the impacts of increased height are mitigated.
5. Screening (requirements may be modified by the Zoning Administrator for projects in the P-1 District). Screening and buffering shall be used to mitigate adverse visual impacts and to provide for compatibility between dissimilar adjoining uses. Screening is required to substantially block any view of material, equipment, or stored vehicles from any point located on a street or adjoining property adjacent to the site. The required Project Boundary Setbacks and associated Buffer Zone provide a measure of screening by providing increased distance or setbacks from exterior property lines to reduce impacts associated with the Solar Facility. The applicant shall use one or a combination of methods listed in this section, or other comparable methods deemed equivalent by the Zoning Administrator, to satisfy the screening requirements.
 - a. Existing Screening. Existing vegetation, topography, buildings, open space, or other elements located on the site may be considered as part of the required screening.
 - b. Landscaping. Landscaping intended for screening shall consist of a combination of evergreen trees that are 5-6 ft. in height at time of planting and deciduous trees that are 5-6 ft. in height at time of planting. Trees shall be placed on average at 15 ft. on center and be planted in no less than three (3) rows. A list of appropriate plant materials shall be available at the Planning & Development Office.
 - c. Berming. Berms shall generally be constructed with a 3:1 side slope to rise ratio, 4-6 ft. above the adjacent grade, with a 3 ft. wide top (the wide top is necessary to have a flat area for plantings). The outside edges of the berm shall be sculpted such that there are vertical and horizontal undulations to give variations in appearance. When completed, the berm should not have a uniform appearance.
 - d. Fencing. Fencing intended for screening shall be at least 75 percent visually solid as viewed on any line perpendicular to the fence from adjacent property or a public street. Such fencing may be used in combination with other screening methods but shall not be the primary method. A typical example is the use of wood privacy fencing and landscaping to screen structures such as substations. Depending on the location, ornamental features may be required on the fence. Fencing material shall not include plastic slats.

Commented [Cockrell10]: Again, what's the justification? 500' seems pretty reasonable. The setback should be fair in comparison with similar size industrial developments and clearly driven by viewshed protection, noise and dust abatement or similar impacts to neighbors.

Commented [Cockrell11]: This is a new strategy restricting building near frack wells in Weld County. The purpose, of course, is to preclude conflicts generated by building housing developments too close to existing wells.

6. Ground Cover. Ground cover on the site shall be native vegetation, and incorporation of native plant species that require no pesticides, herbicides, and fertilizers or the use of pesticides and fertilizers with low toxicity, persistence, and bioavailability is recommended.
7. Security Fencing. The Solar Facilities shall be enclosed by security fencing not less than six (6) feet in height. Heights greater than six feet may require a building permit from the Pueblo Regional Building Department and County. Security fencing shall be placed around sections of the facilities, including PV pods, to provide openings between the sections and pods to allow for the movement of migratory animals and other wildlife. Security fencing shall be placed on the interior of the Buffer Zone to be significantly screened from public view.
 - a. A performance bond reflecting the costs of anticipated fence maintenance shall be posted and maintained. Failure to maintain the fence in a good and functional condition will result in revocation of the permit.
 - b. Fencing shall be monitored for buildup of tumbleweeds and other windswept debris and cleared of such as needed. Monitoring and potential clearing of tumbleweeds shall take place at least once between October 1st and November 31st of each year. Tumbleweeds shall be disposed of in a manner as to mitigate seed dispersal.
8. Wildlife corridors. Access corridors for wildlife to navigate through the solar facility shall be identified and shown on the Concept Plan and Development Plan submitted to the County.
9. Style. The design of support buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and surrounding structures.
10. Exterior/Outdoor Lighting. Outdoor lighting shall be limited to levels required for safety and security. Facilities need to comply with section 17.120.180. All lights shall be shielded.
11. Signs. The County's typical stipulation allowing a sign with a sign permit in accordance with Chapter 17.116 of these regulations.
12. Sound. No sound resulting from the industrial or business activity shall be measurable at the outer boundaries of the parcel.
13. Vibrations. No vibrations resulting from the industrial or business activity shall be measurable at the outer boundaries of the parcel.
14. Odors. No odors resulting from the industrial or business activity shall be discernible at the outer boundaries of the parcel.
15. Gasses. No noxious gases resulting from the activity shall be discernible beyond the outer boundaries of the parcel.
16. Smoke. No observable smoke shall be emitted.
17. Dust. No dust or dirt resulting from the activity shall be discernible beyond the outer

Commented [Cockrell12]: Is this reasonable? Are there sounds associated with the storage units that will be difficult to eliminate? Why not limit this to the same decibel levels for other industrial uses in the same zone districts?

Commented [Cockrell13]: Is this reasonable, especially in the first year or two? Seems like dust and dust abatement ought to be the same standard as for other industrial uses.

boundaries of the parcel.

18. Glare. **No glare** shall be discernible beyond the outer boundaries of parcel.
19. Heat. No heat shall be discernible beyond the outer boundaries of parcel.
20. Ingress/Egress. Permanent access roads and parking areas will be stabilized with gravel, asphalt, or concrete to minimize dust and impacts to adjacent properties.
21. Water Supply. After completion of construction, water may be purchased for the purpose of washing panels if the Applicant and the Water Provider enter into a mutually acceptable agreement.
22. Coordination of local emergency services. Applicants for new solar facilities shall coordinate with the County's emergency services staff to provide materials, education and/or training to the departments serving the property with emergency services in how to safely respond to on-site emergencies.
23. At all times, the Solar Facility shall comply with any other condition added or required by the Board of County Commissioners as part of a 1041 Permit approval.
24. Compliance with other local, state, and federal regulations. During the term of this permit, operation shall fully comply with all applicable local regulations, as well as all applicable state and federal regulations, including but not limited to, the U.S. Environmental Protection Agency (EPA), Federal Aviation Administration ("FAA"), State Corporation Commission ("SCC") or equivalent, Colorado Department of Public Health and Environment (CDPHE), Colorado Department of Agriculture, the Colorado Parks and Wildlife (CPW), and all the applicable regulations of any other agencies.
25. If the Solar Facility does not receive a building permit within 24 months of approval of the 1041 Permit, the Permit shall be terminated.
26. Construction timeline. Unless allowed by a phasing plan approved by the Board, the Solar Facility shall be installed in accordance with the Development Plan within three (3) years of approval of the permit. Extensions may be granted by the BOCC on a case-by-case basis as deemed necessary or appropriate.
27. Traffic. The applicant shall comply with all Colorado Department of Transportation (CDOT) and/or Pueblo County Department of Engineering and Public Works recommendations for traffic management during construction and decommissioning of the Solar Facility.
 - a. Access Permit: Pursuant to Chapter 12.04, Article 7 of the Pueblo County Code, the applicant shall apply to the Pueblo County Department of Engineering and Public Works for an Access Permit for their proposed access locations onto any Pueblo County public road. All conditions of said access permit shall be complied with prior to commencing construction. Final approval of the access permit shall be deemed as compliance with this condition.
 - b. The roads shall be maintained in a safe operating condition during the construction phase and be brought back to the original condition, or improved, upon completion of the construction and decommissioning phases, unless, as determined by the

Commented [Cockrell14]: The "lake effect" of a glare mirage visible to migratory birds is a common problem. Needs industry input about what mitigation strategies are cost effective (e.g. anti-glare coatings on the panels)

Director of Engineering and Public Works, extensive damage has occurred, in which case immediate emergency repairs must be made.

- i. Gravel road: prior to the construction phase of the facility the applicant shall dust treat the entire length of x road (road segment description) and pay for the application (labor and material) of dust suppression materials. The applicant shall be required to re-gravel all identified roads if traffic causes substantial loss of existing gravel. The County and the applicant shall agree on the existing state of x road(s) prior to the start of construction. After construction activities have ceased x road(s) shall be evaluated for loss of gravel as measured against the condition prior to construction activity. If required, the applicant shall re-gravel the entire length of x road (road segment description) to Pueblo County road with 4 inches of class 6 base course.
 - ii. Paved road: the applicant shall be responsible for damage to any Pueblo County public roads caused by their construction traffic. The County and the applicant shall agree on the existing state of Pueblo County public road(s) as documented by video taken by a representative from the Department of Engineering and Public Works (PW) and making note of any existing damage prior to the beginning of construction activities. The route shall be monitored during construction activities and the applicant shall make repairs caused by construction traffic at the direction of the Director of Engineering and Public Works. Within two (2) weeks after construction activities have ceased the applicant shall contact this department and request that the video be scheduled to be taken. Any stationing and width measurements before and after shall be performed by the County. The road will be evaluated for damage as measured against the condition prior to construction activity. The applicant shall then make any necessary repairs to the road, as determined by PW, such that it will be in a similar state as existed prior to construction activities.
28. Maintenance. The Solar Facility shall be continually maintained and kept in good repair and shall include, but not be limited to, fencing, ground cover, weed mitigation, screening, lighting, driveways, entrances, and structures. The Solar Facility operator or owner shall be responsible for the cost of maintaining the Solar Facility and the cost of repairing damage to public and private roads occurring because of construction and operation. Failure to maintain the Solar Facility may result in revocation of the 1041 Permit and the facility's decommissioning. The operator shall notify the County prior to application of any pesticides or fertilizers. The County reserves the right to request soil and water testing.
29. Inspections. The Applicant will allow designated County representatives or employees access to the facility for inspection purposes with 24-hour notice. The Applicant shall reimburse the County its costs in obtaining an independent third-party to conduct inspections required by local and state laws and regulations.
30. The owner and operator shall give the County written notice of any proposed change in ownership or operator which shall be approved by the BOCC to continue operating under

the 1041 Permit in conformance with Chapter 17.148 Administrative Regulations, Article 4. Permits, Section 17.148.330 Transfer of Permits.

G. **Special provisions for battery facilities.** In addition to the above general provisions, application requirements, and development and performance standards, the following additional requirements shall be met for the approval of a Battery Energy Storage Facility:

Commented [Cockrell15]: These should be developed in collaboration with industry. I presume they have been.

1. Battery Energy Storage Facilities shall be constructed, maintained, and operated in accordance with national industry standards and regulations including the most current adopted edition of the National Electrical Code, International Fire Code of the International Code Council, and the National Fire Protection Association Fire Code. The batteries will be NFPA (National Fire Protection Agency)-~~complaint~~compliant. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control so that as technology advances, updated technology may be used.
2. Battery cells shall be placed in a Battery Energy Storage System (“BESS”) with a Battery Management System (“BMS”). The BESS shall provide a secondary layer of physical containment to the batteries and be equipped with cooling, ventilation, and fire suppression systems. Each individual battery shall have 24/7 automated fire detection technology built in. The BMS shall monitor individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and be able to shut down the system before Thermal Runaway takes place.
3. The Battery Energy Storage System will be placed on an appropriate foundation and screened with vegetation outside of environmentally sensitive areas.
4. Access to all batteries and electrical switchgear shall be from the exterior for normal operation and maintenance. Access to the container interior shall not be permitted while the system is in operation except for safety personnel and first responders.
5. Qualifications and experience from selected developers and integrators shall be provided including disclosure of fires or other hazards at facilities.
6. Safety testing and failure modes analysis data from selected developers and manufacturers shall be provided.
7. The latest applicable product certifications shall be provided.
8. The Solar Facility operator or owner shall be responsible for any environmental remediation required by the county or the state and the costs of such remediation. All remediation shall be completed in a timely manner.
9. Battery storage shall be developed in collaboration with technical experts and first responders to utilize technology-appropriate best practices for safe energy storage systems including, but not limited to, the following:
 - a. Adequate access/egress for the first responders;
 - b. Adequate facility signage (on battery chemistry and person to contact);

- c. Accessible Safety Data Sheets;
 - d. System-specific emergency response plans;
 - e. Training for first responders on the type of system, potential hazards and risks, and system-specific emergency response plans;
 - f. Adequate water sources and fire suppression appliances for the fire fighters if required in the emergency response plans;
 - g. Signage on Hazardous Materials present in the vicinity;
 - h. Emergency lighting;
 - i. Separate battery modules to better isolate a failed battery;
 - j. Sufficient disconnect and shutdown capability including a master kill switch to disable and discharge batteries;
 - k. System-appropriate sensors and alarms;
 - l. Air ventilation and fire suppression systems;
 - m. Drainage for water runoff; and
 - n. Other practices as recommended by experts or local first responders.
 - o. The Solar Facility operator or owner shall conduct regular on-site inspections of the battery units and submit a written report to the Zoning Administrator on their condition, at least once every six (6) months.
- H. Special provisions for substations. In addition to the above general provisions, application requirements, and development and performance standards, the following additional requirements shall be met for the approval of a substation:
- 1. Siting. Substations located within the Solar Facility shall be located in accordance with the Concept and Development Plans.
 - 2. Term. Substations included as part of the Solar Facility may have a life longer than that of the remainder of the Solar Facility and may continue under the 1041 Permit as part of this application approval.
- I. Decommissioning and Reclamation. The following requirements shall be met for decommissioning the Solar Facility and reclamation of the site.
- 1. Solar facilities that have reached the end of their useful life or have not been in active and continuous service for a period of six (6) months, shall be decommissioned at the Solar Facility owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the County may require evidentiary support that a longer repair period is necessary.
 - 2. If the Solar Facility is to be decommissioned, the Solar Facility owner or operator shall notify the Zoning Administrator in writing of the proposed date of discontinued operations and plans for removal.
 - 3. Decommissioning shall be performed in compliance with the approved Decommissioning

Commented [Cockrell16]: Is this accepted by industry reps? What are the critical factors in setting six months as the limit of inactivity?

Plan. The BOCC may approve any appropriate amendments to or modifications of the Decommissioning Plan.

4. Decommissioning shall include removal of anything above or below-ground that was constructed or erected as part of the Solar Facility to include structures, buildings, equipment, cabling and wiring, solar electric systems, electrical components, security barriers, driveways, entrances, foundations, pilings, and any other associated facilities, including all material and equipment located underground.
5. Once such removal is completed, any agricultural ground upon which the Solar Facility was located shall be again tillable and suitable for agricultural or forestall uses.
6. Decommissioning shall also include restoration of the Project Area to pre-development conditions, including pre-development grading, and to include grading and re-seeding the site to restore it to as natural a pre-development condition as indicated on the Development Plan and other application materials. Re-grading and re-seeding or replanting shall be initiated within a six-month period of removal of equipment. The site shall be re-graded and re-seeded or replanted within 12 months of removal of solar facilities.
7. Any exception to site restoration, such as leaving driveways, entrances, or landscaping in place, or substituting plantings, shall be requested by the landowner in writing, and this request must be approved by the BOCC.
8. Hazardous material from the property shall be disposed of in accordance with federal and state law.
 - a. The County shall consent to the release of funds upon compliance with the approved decommissioning plan. The County may approve the partial release of funds as portions of the approved decommissioning plan are performed.
 - b. If the owner or operator of the solar facility fails to remove the installation in accordance with the requirements of this permit or within the proposed date of decommissioning, the County may collect the financial security and the County or hired third party may enter the property to physically remove the installation.

J. General Conditions.

1. Site Plan Requirements. In addition to all Colorado site plan requirements and site plan requirements of the Zoning Administrator, the Applicant shall provide the following plans for review and approval for the Solar Facility prior to the issuance of a building permit:
 - a. Construction Management Plan. The Applicant shall prepare a "Construction Management Plan" for each applicable site plan for the Solar Facility, and each plan shall address the following:
 - i. Traffic control methods (in coordination with the Colorado Department of Transportation [CDOT] and County Public Works prior to initiation of construction):
 - 1) Lane closures,

- 2) Signage, and
 - 3) Flagging procedures.
 - ii. Site access planning. Directing employee and delivery traffic to minimize conflicts with local traffic.
 - iii. Site security. The Applicant shall implement security measures prior to the commencement of construction of Solar Facilities on the Project Site.
 - iv. Lighting. During construction of the Solar Facility, any temporary construction lighting shall be positioned downward, inward, and shielded to eliminate glare from all adjacent properties. Emergency and/or safety lighting shall be exempt from this construction lighting condition.
 - v. Water Supply. In the event that on-site wells are used during construction of the solar energy facility, the Applicant shall prepare and submit for review to the County hydrogeologic information necessary for the County to determine the potential impact to pre-existing users for the same aquifer proposed to be used for the solar energy facility and a plan to mitigate impacts to pre-existing users within the area of impact of the Project. If the County, in consultation with the Department of Environmental Quality, determines that the installation of a well will not adversely affect existing users, the Applicant may proceed with well construction in compliance with approval by the Department of Environmental Quality. At the end of the construction of the solar energy facility, the well shall not thereafter be used except only for personal toilet and lavatory facilities as required by the Uniform Statewide Building Code for operations and maintenance buildings.
- b. Construction Mitigation Plan. The Applicant shall prepare a "Construction Mitigation Plan" for each applicable site plan for the Solar Facility, and each plan shall address the effective mitigation of dust, burning operations, hours of construction activity, access and road improvements, and handling of general construction complaints as set forth and described in the application materials and to the satisfaction of the Zoning Administrator. Damage to public roads related to construction activities shall be repaired as soon as possible and not postponed until construction completion. The Applicant shall provide written notice to both the Zoning Administrator and the Director of Engineering and Public Works of the plans for making such repairs, including time within which repairs will be commenced and completed, within thirty (30) days of any written notice received from the Zoning Administrator.
- i. Driving of posts shall be limited to 7:00 am to 6:00 pm, Monday through Saturday. Driving of posts shall be prohibited on state and federal holidays.
 - ii. Other construction activity on-site shall be permitted Monday through Saturday, and in accordance with the provisions of the County's Noise Ordinance.
 - iii. During construction, the setbacks may be used for staging of materials and parking. No material and equipment laydown area, construction staging

Commented [Cockrell17]: What is this? CDPHE?

- area, or construction trailer shall be located within 200 feet of any property containing a residential dwelling.
- iv. Construction lighting shall be minimized and shall be directed downward.
- c. Traffic Study. The Applicant will submit a final Traffic Study for review and approval if required by the Zoning Administrator prior to the commencement of any construction activities.
- d. Grading Plan. The Applicant will submit a final Grading Plan for review and approval by the Zoning Administrator prior to the commencement of any construction activities. A bond or other security will be posted for the grading operations. The Project shall be constructed in compliance with the Grading Plan. The grading plan shall:
- i. Clearly show existing and proposed contours at no greater than five-foot (5 ft.) contours;
 - ii. Note the locations and amount of topsoil to be removed (if any) and the percent of the site to be graded;
 - iii. Limit grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms;
 - iv. An earthwork balance will be achieved on-site with no import or export of soil;
 - v. In areas proposed to be permanent access roads which will receive gravel or in any areas where more than a few inches of cut are required, topsoil will first be stripped and stockpiled on-site to be used to increase the fertility of areas intended to be seeded;
 - vi. Take advantage of natural flow patterns in drainage design and keep the amount of impervious surface as low as possible to reduce storm water storage needs.
 - vii. Provide for the installation of all stormwater and erosion and sediment control infrastructure at the outset of the project to ensure protection of water quality. Once this infrastructure is complete and approved by the County, no more than 50 percent of the land disturbance areas as reflected on the Site Plan shall be disturbed without soil stabilization at any one time. Stabilization, for purposes of erosion and sediment control, shall mean the application of seed and straw to disturbed areas, which shall be determined by the County.
 - viii. Excavation permit (if a road is cut): The applicant is required to apply for an excavation permit with the PW department for structures to cross under road(s).
- e. Erosion and Sediment Control Plan. The County will have a third-party review with corrections completed prior to County review and approval. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan. An E&S bond (or other security) will be posted for the construction portion of the project.

- f. Stormwater Management Plan. The County will have a third-party review with corrections completed prior to County review and approval. The owner or operator shall construct, maintain, and operate the project in compliance with the approved plan. A storm water control bond (or other security) will be posted for the project for both construction and post construction as applicable and determined by the Zoning Administrator.
 - i. Pueblo County stormwater permit (if located within Pueblo County's MS4 boundary): prior to applying for a building permit or access permit the applicant shall apply for and obtain approval of a Pueblo County application for stormwater construction permit.
 - ii. State construction stormwater permit: prior to applying for a building permit or access permit the applicant shall submit to the department of engineering and public works a copy of the approved Colorado Department of Public Health and Environment (CDPHE) storm water permit and stormwater management plan.
 - iii. Drainage report: prior to the construction phase and as a condition of the access permit the applicant shall submit a final drainage report prepared by a professional engineer licensed to practice in the state of Colorado for approval by this department.
- g. Screening and Vegetation Plan. The applicant will submit a final Screening and Vegetation Plan for review and approval by the Zoning Administrator.
 - i. The plan shall include native species and pollinators along with the overall plant density and the density of individual phases or other designated segments/pods. The owner or operator shall construct, maintain, and operate the facility in compliance with the approved plan. A separate security shall be posted for the ongoing maintenance of the project's land cover and vegetative buffers in an amount deemed sufficient by the Zoning Administrator. Failure to maintain the landscaping in accordance with the landscape maintenance plan may result in the issuance of a notice of violation by the Zoning Administrator. The applicant (or the operator) shall promptly communicate with the Zoning Administrator within 30 days of the date of the notice of violation and submit a plan in writing satisfactory to the Zoning Administrator to remedy such violation no later than 180 days after the date of the notice of violation. Failure to remedy the violation before the end of the 180-day cure period may result in revocation of the permit.
 - ii. Ground cover shall be native vegetation where compatible with site conditions and, in all cases, shall be approved by the Zoning Administrator.
 - iii. Screening vegetation shall include pollinator plants where compatible with site conditions and, in all cases, shall be approved by the Zoning Administrator.
 - iv. Only EPA approved herbicides shall be used for vegetative and weed control at the solar energy facility by a licensed applicator. No herbicides shall be used within 150 feet of the location of an approved ground water well. The applicant shall submit an herbicide land application plan prior to

approval of the certificate of occupancy (or equivalent). The plan shall specify the type of herbicides to be used, the frequency of land application, the identification of approved groundwater wells, wetlands, streams, and the distances from land application areas to features such as wells, wetlands, streams, and other bodies of water. The operator shall notify the county prior to application of pesticides and fertilizers. The county reserves the right to request soil and water testing.

- v. **Revegetation Bond.** The disturbed area shall be any portion of the project area where any vegetative cover or topsoil is removed and these areas shall be clearly shown on a map, clearly showing: all disturbed areas, the acreage calculations for each area, and the total disturbed area acreage. The plant density shall also be noted per the approved Screening and Vegetation Plan. A bond or other form of security agreeable to Pueblo County shall be posted for the revegetation and stabilization in an amount equivalent to \$3500.00 per disturbed acre. Upon achieving final stabilization, as defined in the Colorado Department of Public Health and the Environment (CDPHE) General Permit Number COR-400000 for Stormwater Discharges Associated with Construction Activity, and subject to concurrence of the Pueblo County Department of Engineering and Public Works; the bond will be released.
- h. **Decommissioning and Reclamation Plan.** The applicant will submit a final Decommissioning and Reclamation Plan, certified by a licensed design professional registered in the State of Colorado, in accordance with Zoning Regulations for review and approval by the Zoning Administrator.