

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 Division II, Areas and Activities of State and Local Interest, 1041 Permit process, applications for a ~~large-scale solar facility (i.e.,~~ medium-scale and utility-scale solar project) 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 shall be permitted as accessory uses to existing power plants, public facilities, and other existing uses as determined by the Zoning Administrator regardless of zoning district. Such uses are subject to the provisions herein as determined by the Zoning Administrator on a case-by-case basis. Setbacks, screening requirements, third-party reviews and inspections, and decommissioning should all be carefully considered.
 - ~~2.3.~~ Solar facilities should locate on brownfields, County-owned capped landfills, or near existing industrial uses, where feasible, ~~but not within Development Action Areas.~~
 - ~~3.4.~~ 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~~ shall 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 within 1,000 feet of the property as indicated on the certified list of such owners provided with the application, 2) the Zoning Administrator ~~of~~ 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/proposed with the appurtenant ~~Public~~ 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.
- 5. 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.
 - a. 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.

- b. The total number of simulations and the perspectives from which they are prepared ~~shall~~may be established by the Zoning Administrator after the pre-application meeting.
6. 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.
 7. Covenants/~~Easements/Restrictions~~. A copy of any subdivision ~~and utility~~ covenants, utility easements and restrictions associated with the site.
 8. 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.

9. Construction Schedule. An estimated construction schedule.
10. 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.
11. A preliminary drainage report prepared by an engineer licensed in the State of Colorado.
12. 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.
13. 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 ~~5-4~~ iv. 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 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.

14. 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.
15. ~~Eighteen-Two~~ sets (11"× 17" or larger), one reduced copy (8½"× 11") and one electronic copy of the concept plan (in .pdf format), 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 ~~2,5005,000~~ acres (no size limit in P-1). Requests for higher acreage projects may be submitted at the time of application if there is a clear justification based on location or other factors.
 - 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 up to 6580%. ~~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:
 - Any defined city, town or other community boundary;
 - The boundaries of Pueblo West and Colorado City Metro Districts.
 - Development Action Areas.
 - This provision can be waived with supporting documentation of location approval from affected city, town or other community boundary, Pueblo West and Colorado City Metro District.
 - 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). Requests for facilities closer than one mile to existing or permitted facilities may be submitted at the time of application if there is a clear justification based on location or other factors.

- f. The permit boundary shall be located no more than ~~Within one (1) mile from existing transmission lines (except in P-1).~~ Requests for facilities further than one mile from existing transmission lines may be submitted at the time of application if there is a clear justification based on location or other factors; and
- g. Sited to mitigate negative impacts to residences; historic, cultural, recreational, or environmentally sensitive areas; and scenic viewsheds.

~~d.h.~~ Structures associated with Solar Facilities, to the greatest extent practicable, shall not be located in a regulatory flood plain. Structures located in a regulatory flood plain shall require an approved flood plain development permit. ~~in order to~~

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 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).
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~~right of way. 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 threaded plastic slats or plastic fencing.
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 zoning authorization from Pueblo 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. ~~Failure to maintain the fence~~Fencing must be maintained in a good and functional condition ~~may result in a show cause hearing~~will result in revocation of the permit.
 - ~~b.a.~~
 - e.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 as needed but 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 be compatible with surrounding structures and the natural setting.
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.~~12. 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.~~13. 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 months of approval of the 1041 Permit, the Permit ~~shall~~may 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~~Zoning Administrator on a case-by-case basis as deemed necessary or appropriate.

~~27.19.~~ Traffic. The applicant shall comply with all Colorado Department of Transportation (CDOT) and/or Pueblo County Department of Engineering and Public Works 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 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.

~~28.20.~~ 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. The operator shall notify the County prior to application of any pesticides or fertilizers. The County reserves the right to require soil and water testing.

~~29.21.~~ Inspections. The Applicant will allow designated County representatives or employees access to the facility for inspection purposes. The County representative or employee will provide the Solar Facility Operator with 24-hour notice prior to such inspection when practicable. 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.

~~30.22.~~ 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) ~~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.
10. 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~~ annually.
- H. Special provisions for project related 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 project related substation. Utility owned substations are subject to a separate permitting process.⚡
- 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.
9. 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.
10. 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 Pueblo County 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 Colorado Department of Public Health and Environment

~~(CDPHE) 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 CDPHE. 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 the Department of Engineering and Public Works Zoning Administrator prior to the approval of an access permit. commencement of any construction activities.~~ The Traffic Study, if required, will be reviewed and approved by the Department of Engineering and Public Works and/or a third-party if deemed necessary.
- d. Grading Plan. The Applicant will submit a final Grading Plan for review and approval by the ~~Zoning Administrator~~ Department of Engineering and Public Works 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.
- h. 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, including all erosion and sedimentation controls, grading, stormwater management, and landscaping. ~~and stabilization~~ The amount of funds required shall be the full amount of the estimated revegetation cost reviewed by a third-party as approved by the County. ~~The bond shall be 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.

i. 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.

j. Professional Services, Legal Services, and Associated Studies. The County reserves the authority to charge and collect reimbursement for third-party building plan, site, or other review of any application, including, but not limited to, civil engineer, traffic engineer, landscape architect, urban forester, arborist, attorney, or any other professional costs and associated expenses.

~~— The Applicant shall reimburse the County its costs in obtaining independent third-party reviews as required by this article per Section 17.148.250 (2)(A), “Bill for Costs Process”.~~