Saguache County Land Development Code

Solar Energy Facilities Guidelines

These guidelines were initially intended to be adopted as County regulations and contain language reflecting that approach. The Saguache County Commissioners encourage the development of Solar Facilities within Saguache County and the San Luis Valley, therefore they have made the decision to use this document as a guideline for any Solar Facilities that are applied for within the unincorporated area of Saguache County.

These guidelines are applicable to any solar facility seeking approval for any project designed to generate 1MW up to 5MW nameplate capacity. Such projects also require a Conditional Use Permit, which shall be administratively processed by the by Land Use Administrator or a designee and presented to the Saguache County Planning Commission for review, and the Board of County Commissioners for final decision.

These guidelines are also applicable to any solar facility seeking approval for any project designed to generate 5MW or greater nameplate capacity, as part of the required County 1041 Permit application, which shall be administratively processed by the Land Use Administrator or a designee, and presented to the Board of County Commissioners for final decision.

XXI.1. Authority:

This Section is authorized by inter alia, C.R.S. §§ 29-20-101 et seq., 34-60-101 et seq., 30-28-101 et seq., 30-28-201, et seq.

XXI.2. Purpose:

This Article XXII is enacted to protect and promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future residents of Saguache County, and to allow for a reasonable permitting process for solar energy development.

It is acknowledged that there is significant potential for the capture of solar energy resources both in the County and in the San Luis Valley. Saguache County supports and encourages Valley-wide cooperation and coordination of renewable energy development within the San Luis Valley, as well as a balance between various scales – domestic, distributed, utility – of solar development. Landowners have certain legal rights and privileges, including the right to develop land in a respectful manner, and to have adverse land use impacts associated with energy development minimized and mitigated through compliance with this Article. Should it be established by competent evidence that a proposed facility cannot be operated in compliance with this Article, county land use approval for such a facility may be denied.

XXI.3. Jurisdiction:

This Article XXII shall apply to the unincorporated area of Saguache County.

3.1. General Procedures.

3.1.1. Construction, installation and operation of solar energy facilities, which are subject to this Article, shall not commence until the relevant authority in accordance with the requirements of this Article has granted administrative approval.
3.1.2. Planning Commission review and recommendation together with Board of County Commissioners review and approval shall be required for all solar facilities of 1MW up to 5MW nameplate capacity. Any solar facility that is over 5MW and above requires that a 1041 permit be applied for.

3.1.3. This Article provides standards for development review of the surface impacts, natural resource protection requirements, and cost-benefit assessment issues for solar energy facility construction and operation that consider applicable state interests. Saguache County encourages the use of solar technologies and solar energy development models that: minimize surface, wildlife and visual impacts; result in minimal consumptive use of water resources; do not rely on fossil fuel burning cogeneration methods; provide net positive benefits to County and other affected local residents; demonstrate and encourage energy conservation; and reflect appropriate scale.

XXII.4. DEFINITIONS

For the purposes of this Article, the following words, terms and phrases shall have the following meanings, except where the context clearly indicates a different meaning:

4.1. ACCESS ROAD. A road located on private property between the site on which a solar generation or distribution facility is located and the municipal or county road or state highway serving such a Facility.

4.2. APPLICANT. The person, corporation or other legal entity seeking to develop the solar resource or any other use proposed in connection the development of the solar resource for the site in question.

4.3. ATTAINMENT (NON-ATTAINMENT) AREAS. An attainment area is a zone within which pollution levels are considered to meet United States National Ambient Air Quality Standards. A non-attainment area is designated by the EPA when monitored pollutant concentrations exceed these standards a certain number of times (varies by pollutant) over a three-year period.

4.4. COMPATIBLE/COMPATIBILITY. Able to exist or act together harmoniously, considering noise levels, odors, potential fire hazard, visual impacts, and effects to surface water and groundwater quality/quantity, adequacy of the road system, air quality and surrounding land uses and inhabitants.

4.5. CONCENTRATING SOLAR POWER (CSP). Solar energy technologies, including linear trough, dish/engine and power tower systems, which use mirrors to reflect and concentrate sunlight onto receivers that collect the solar energy and convert it to heat. This thermal energy is then used to produce electricity via a steam turbine or heat engine driving a generator. CSP facilities generally include a heat (energy) storage component.

4.6. CONTAMINATED SOIL. Soils impacted by operations in a way that adversely affects their ability to support normal uses or could adversely affect water quality in the future.

4.7. COUNTY. Saguache County, its Board of Commissioners or other agency of Saguache County with delegated authority to set or enforce these regulations.

4.8. CORRIDOR. The route within which a transmission line right-of-way is located.

4.9. DESIGNATED AGENT. An agent formally designated by either the applicant or a relevant landowner or lessee to act on behalf of the relevant party.
4.10. DISTRIBUTED SOLAR ENERGY FACILITY. A solar energy facility rated to produce between 1 and 10 MW of electricity that is intended for consumption within the San Luis Valley.

4.11. DISTRIBUTION SYSTEM. Electrical infrastructure that distributes energy from a substation to the end users.

4.12. DOMESTIC SOLAR ENERGY INSTALLATION. An individual solar energy installation rated to produce less than 1 MW of electricity intended for on site or immediate vicinity consumption. A domestic installation may be stand alone or connected to a grid under a net metering agreement.

4.13. EASEMENT. Authorization by a property owner for the use of a designated portion of his or her property by another, for a specified purpose.

4.14. HEAT TRANSFER MEDIA – In a concentrating solar plant, the material that flows through the solar concentrator that “transfers” the heat collected to another material, the thermal storage medium, for storage.

4.15. MINERAL ESTATE. Mineral interest in real property that is shown by the real estate records of the county in which the real property is situated and that is not owned as part of the full fee title to the real property.

4.16. NAMEPLATE CAPACITY. The full-load continuous rating of a generator or other electric power production equipment under specific conditions as designated by the manufacturer. Actual capability can vary from the nameplate rating due to age, wear, maintenance or ambient conditions.

4.17. NET METERING. A policy for electricity consumers who operate (generally small) renewable energy facilities, such as wind, solar or home fuel cells. Under net metering, a system user receives a specific credit for the “net” (produced minus consumed) portion of the electricity generated by the system that is fed back into the grid.

4.18. NON-CROPLAND. Any land used in ways other than those defined as agricultural land.

4.19. NON-POLLUTING ACTIVITY – Any activity that does not have the capacity to produce measurable degradation to water, air, soil, ambient sound levels or visual attributes.

4.20. OPERATING PLAN. A general description of a facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure, traffic patterns and any other information related to regular functioning of that facility.

4.21. OPERATOR. A company or individual who has been permitted by Saguache County to conduct any type of solar energy facility construction and/or operation on a permitted site.

4.22. PHASE CHANGE MATERIAL (PCM) – Thermal storage and heat exchange materials designed to operate at high heat, increase heat storage capacity in less space and reduce costs of CSP plants.

4.23. PHOTOVOLTAIC SYSTEMS (PV) - Literally translated as light-electricity, photovoltaic (PV) systems convert solar radiation into electricity using semiconductor materials connected together into modules and arrays of various energy-production capacities. A PV system can also include electrical connections, mounting hardware, power-conditioning
equipment, and (for domestic systems not connected to a grid) batteries that store solar energy for later use.

4.24. POLLUTION. The contamination or other degradation of the physical, chemical or biological properties of water, air or soil, including, but not limited to: change in temperature, taste, color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other substance into water, air or soil as will or is likely to create a nuisance or render such water, air or soil harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other beneficial uses, or to livestock, wild animals, birds, fish or other aquatic, life or native flora.

4.25. POTENTIAL CONSERVATION AREA (PCA). Areas known to contain significant ecological or biological features or species of concern as defined and identified by the Colorado Natural Heritage Program (CNHP).

4.26. POTENTIALLY POLLUTING ACTIVITY. Any activity that may cause a measurable degradation to water, air or soil quality or produce noise that increases ambient sound levels by more than 10 decibels.

4.27. RECREATIONAL LAND(S). Lands that are used for the purpose of public or private outdoor recreational activities. Recreational activities may be active or passive and may include, but may not be limited to; sports fields, playgrounds, public parks, camping sites, and trails used for hiking, rock climbing, horse back riding, cross-country skiing, snowshoeing, hunting and fishing.

4.28. RESTRICTED SURFACE OCCUPANCY AREA (RSO). Restricted surface occupancy areas are highly sensitive wildlife habitats where avoidance or anthropogenic structures and disturbances is the most effective method of protecting sensitive species and wildlife.

4.29. RESIDENTIAL AREA. Any area having an existing residence or platted subdivision lot located within a one-quarter mile radius of a facility site.

4.30. RIGHT OF WAY. A tract or strip of land, separate and distinct from the adjoining property that is owned for the purpose of occupied by or intended to be occupied by transmission infrastructure.

4.31. SOLAR ENERGY FACILITY. Any installation of greater than nameplate capacity that utilizes radiation from the sun to produce other forms of energy. A facility may serve domestic, agricultural, experimental, demonstration or commercial purposes, and includes, but is not limited to:

- Equipment to capture, reflect or magnify solar energy, e.g. photovoltaic panels, or mirrors;
- Equipment that converts solar energy to other forms, including electrical generators;
- All ancillary and associated equipment, including water treatment plants, transmission and distribution lines, substations, cooling equipment, roads, storage facilities, waste facilities and/or any other equipment or facility that is necessary for the successful operation of the solar energy facility.

4.32. SPECIES OF CONCERN. Any plant or animal species or subspecies of state or federal concern as identified by the Colorado Division of Wildlife, the Bureau of Land Management, U.S. Department of Agriculture, U.S. Fish and Wildlife Service or the Colorado Natural Heritage Program, including any species listed as threatened, endangered, candidate or currently under litigation pursuant to the Endangered Species Act.
4.33. STORM WATER MANAGEMENT PLAN. A detailed analysis of how storm water on the site will be managed, including the system’s design and how it will be constructed to meet applicable County and Colorado Department of Health and Environment requirements.

4.34. SUBCONTRACTOR. A company or individual who is employed by an Operator to conduct any related activity on the permitted premises.

4.35. THERMAL STORAGE MEDIUM – A material used to store collected heat for later use.

4.36. TRANSMISSION INFRASTRUCTURE. The physical hardware needed to connect electrical generation facilities to substations near end user populations. The portion of the system that connects substations to end-users is referred to as distribution.

4.37. UTILITY SCALE SOLAR ENERGY FACILITY. An installation rated to produce more than 5 MW of electricity.

4.38. WATER BODIES. The term “water bodies” may include reservoirs, lakes, and perennial or seasonally flowing rivers, streams, creeks, springs, irrigation ditches, aquifers, wetlands, playa, arroyos, stock ponds and draws.

All other words used in this Article may be given their usual, customary and accepted meaning in the solar energy industry.

XXII.5. Delineation of domestic, distributed and utility-scale solar energy facilities.

5.1. Domestic Facilities. Domestic solar energy facilities do not require a permit under this Article. A domestic solar energy facility is defined as an individual solar energy installation rated to produce less than of electricity intended for on site or immediate vicinity consumption. Excess energy that is fed back in to a grid from a domestic solar facility is deemed for the purposes of this section to be consumed on site.

5.2. Distributed Facilities. A distributed solar energy facility has a nameplate generation capacity of 1MW up to 5MW intended for consumption within the San Luis Valley. Excess energy that is fed back in to a grid from a distributed solar facility is deemed for the purposes of this section to be consumed within the San Luis Valley.

5.3. Utility-Scale Facility. Utility-scale solar energy facilities require a permit under this Article. A utility-scale solar energy facility is an installation rated to produce more than 5 MW of electricity. In addition to the solar radiation collection installation, the facility may include:

5.3.1. Equipment, storage yards or construction staging areas;
5.3.2. Water lines, wells and associated facilities;
5.3.3. Thermal storage facilities;
5.3.4. Electric generation and conversion facilities;
5.3.5. Chemical storage facilities;
5.3.6. Transmission lines located outside an individual solar site;
5.3.7. Other equipment or installation related to the production and transmission of solar energy.
5.3.8. Due to the size, quality, value and sensitivity of the underlying aquifers, chemical waste facilities are not permitted.
XXII.6. Application Submittal Requirements for a Solar Energy Facility Permit

6.1. The applicant may submit a minimum of sixteen complete copies, or a number as directed by the Land Use Administrator, of the application and associated materials detailed below, along with the filing fee as set by the Board of County Commissioners.


6.2.1. Applicant. The name, address, telephone and fax numbers, and e-mail address for the applicant; and if the applicant is to be represented by an agent, a notarized letter signed by the applicant authorizing the agent to represent the applicant and also stating the same information for the agent.

6.2.2. If applicant is not the surface owner, the Applicant may provide the name and address of the owner of the property; documentation of surface ownership; copies of any surface use/damage agreements and leases affecting the area where the solar facility will be operated, including proof of right of entry for ingress and egress and installation of all necessary infrastructure, and such other provisions relating to the use of the surface estate as may be appropriate. Such submitted agreement(s) may be redacted to delete any provisions pertaining to financial and/or non-monetary compensation that the Applicant has paid or agreed to pay to the surface owner. If such agreements have not been executed, the Applicant may submit a notarized written consent or written waiver for the proposed Facility that has been executed by the owner(s) of the property upon which such Facility is to be located, together with a copy of any bond that has been posted as security for possible surface damages. For Facilities located within a parcel or parcels for which the Applicant is the current owner or lessee of the parcel(s), the Applicant may provide proof of ownership or a copy of the lease.

6.2.3. Mineral Interest Owner. Documentation of mineral interest ownership, including name and address of the owner of the mineral interests, if applicable.

6.2.4. Parcel Location. The legal description (referencing lot and block or tract numbers, homesteads, or metes and bounds), property address and common description of the parcel on which the Facility is proposed to be located.

6.2.5. Identification of Previously Approved Uses. List any Federal, State and County permits, which have been previously approved under the Land Development Code after April 1988 for the parcel on which the Facility is proposed.

6.2.5. Characteristics and Current Condition of the Operation Location. Identification of physical characteristics and descriptions of current conditions of the site where the Facility is proposed to occur, including water bodies, soils and vegetation, roads, potential geologic hazards, potential mineral resources, and any other characteristics requested by the Land Use Department to determine potential impacts.

6.2.6. List of Adjacent Land Parcels. A listing of all land parcels and land uses that are within 1500 feet of the boundaries of the parcel on which the project is proposed, including all properties that are separated from the parcel by a roadway or would be adjacent to the parcels except for the existence of the roadway.

6.2.7. Vicinity Map. A vicinity map which shall, at a minimum, include the following:
6.2.7.1. **Facility Location.** Location of the Facility on a United States Geological Survey quadrangle map or on a recorded plat if the proposed solar facility is within an approved subdivision, including GPS localization coordinates, with the location highlighted so that it is easy to see.

6.2.7.2. **Transmission System Lines.**

   a. A map that displays the route(s) of all existing transmission and/or distribution infrastructure that will be used by the facility and all new transmission and/or distribution infrastructure that will be necessitated by the facility.

   b. Prior to installation of lines, an Encroachment Permit may be obtained from the Road and Bridge Department for any road crossings and work in Saguache County rights-of-way or Saguache County roads.

6.2.7.3. **Topographic Features.** Water bodies, contour lines and elevations, within one mile of the proposed solar facility.

6.2.7.4. **Roads.** All public and private roads that traverse and/or provide access to the proposed Facility, and identification of the public or private entity having jurisdiction over each road(s).

6.2.7.5. **Easements.** Easements recorded or historically used that provide access to or across, or other use of, the parcel(s).

6.2.7.6. **Special Districts, Municipalities, Subdivisions, Structures.** Locations of special district boundaries, municipalities, subdivisions, and commercial or residential structures within three miles of the site.

6.2.7.7. **Proximity to other Energy Facilities.** Location of other existing permitted or proposed energy facilities within five miles of the site.

6.2.8. **Site Plan Map.** An accurate map with north arrow and appropriate scale (generally 1”=50’) for the parcel(s) where the Solar Facility will occur. The map may be prepared digitally on county geographic information system parcel maps, and indicate the following:


6.2.8.2. **Improvements.** Any existing improvements.

6.2.8.3. **Proposed facilities.** A description of facilities proposed for the site, including the type and scale (projected output) of the facility, the area required, solar radiation collection equipment and placement area, heat transfer and energy storage facilities, structures, transmission and distribution lines, tanks, wells, generators, compressors, engines, impoundment facilities, temporary living quarters, staging and storage areas and equipment, roads, fencing, type and location of exterior lighting.

6.2.8.4. **Site Features.** Any significant site features including floodplains, water bodies, drainage patterns, cultural and archeological resources.

6.2.8.5. **Topography.** Existing and proposed topography at five-foot intervals or some other interval established by the Land Use Department as necessary to portray the direction and slope of the area affected by the Solar Facility.

6.2.8.6. **Color photos (8” x 10”).** An aerial photo of the location of the proposed solar facility installation and ground photos of adjacent areas facing north, south, east, and west showing existing landscape. Photos should be taken during a season when vegetation features can be clearly documented.
6.2.9. Application and Permits. Copies of all local, state and federal applications authorizing or required for the Facility, and permits, when issued.

6.2.10. Operation Plan. A plan including projected start and completion dates for construction, estimated duration of facility operation, description of equipment used, including horsepower; transportation, generation, and post-operation activities, including a site reclamation plan pursuant to section 8.5.7.of this Article.

6.2.13. Reasonably Foreseeable Future Development Plan. The Applicant may provide a summary of the applicant’s projected development scenario, including location and density of arrays, roads, transmission lines, generators, and any other facilities for all of the proposed and adjacent lands owned or leased or projected to be occupied by solar energy facilities operated by the permittee.

6.2.14. Water and Sewer. Detailed data on the projected use of water, its availability and source and a plan for sewage handling.

6.2.15. Noxious Weed and Introduced Species Prevention Plan. A plan for the management and prevention of noxious weeds and/or harmful introduced species on the site that complies with all County and State requirements.

6.2.16. Waste Management Plan. A plan for the handling, storage, transportation, treatment, recycling and disposal of waste generated by the Facility.

6.2.17. Access and Transportation Routes/Plan. A map that identifies the access route to and within the parcel, color photos of the proposed road locations to be used for accessing the property, and a narrative estimating the number and types of vehicles anticipated per day, including weights, that will travel over the route(s).

6.2.18. Roadway Impact Analysis. An analysis of the impacts of the Facility to the roadway system within the County.


6.2.20. Identification of Water Structures. Identification of irrigation ditches and other water structures, ownership of water rights appurtenant thereto, and evaluation of any impacts to the structures, water rights or water quality.

6.2.21. Water Quality Non-Point Source Impacts.

6.2.21.1. Non-Point Source Impacts to Water Quality. A description of potential non-point source pollution associated with the proposed Solar Facility and proposed mitigation thereof.

6.2.21.2. Mitigation and Avoidance. Proposed avoidance and mitigation measures to minimize any water quality impacts associated with the construction and operation of the facility that fully meet the requirements of Article XVIII, “Significant Groundwater Recharge Zones”, of the Saguache County Land Development Code. Proposed mitigation may include an erosion control plan required under this Section.

6.2.22. Biological Assessment (BA) Report. A site-specific biological assessment, including the results of consultation with the Colorado Division of Wildlife, and any other relevant agencies as listed in Article II of the Land Development Code, to determine the presence of any significant biological resources. Biological
assessments may include presence of habitat for sensitive species and plant communities, wildlife corridors and migration routes, critical wintering habitat, calving or other significant wildlife habitat. The BA should include an analysis and evaluation of the impacts of the construction and operation of the Facility on any biological resources identified, and proposed mitigation. Mitigation measures must, at a minimum, meet the requirements under Article XX “WILDLIFE” of the Saguache County Land Development Code and Section 8.4.3. of this Article. The BA report may include detailed description and GIS recordings of all significant biological resources identified.

6.2.23. Vegetation. A written description of the type, character, and density of existing and proposed vegetation on the parcel, a summary of the impacts of the Facility on vegetation, and proposed mitigation measures.


6.2.25. Emergency Response Plan. An emergency response plan that addresses any reasonably foreseeable hazardous event associated with the construction and operation of the Facility, including the name and contact information for the applicant’s incident commander, proposed signage, access/evacuation routes, and health care facilities anticipated to be used. The plan must be submitted to the County Office of Emergency Management for comment and shall include a provision for the Solar Facility Operator to reimburse the appropriate emergency response service providers for costs incurred in connection with an emergency, where applicable.

6.2.26. Flood Hazard. If applicable, a map showing the boundaries of a 100-year flood, delineating the possible depth of flood waters on the proposed site, and the proposed location of public improvements within the flood boundaries, including buildings, utilities and roads. A professional engineer must certify this information.

6.2.27. Fire Hazards. An assessment of fire and wildfire hazards within three miles of the site, and a plan for mitigating wildfire hazards.

6.2.28. Geologic Hazards. An assessment of the geologic hazards within three miles of the site, including but not limited to induced earthquakes, hydrothermal/volcanic intrusion breaches, subsidence and mudflows, and a plan for mitigating geologic hazards.

6.2.29. Cultural Survey. A cultural, historical, and archeological assessment of the parcel, which has been submitted for review by the relevant agencies pursuant to the Land Development Code. The Cultural Survey may include identification, GIS recording and evaluation of any cultural, archeological or historical resources within a ¼ mile radius of the proposed project area, including Native American burial or other culturally significant sites that meet the requirements for eligibility for registry under the National Historical Preservation Act.

6.2.30 Impacts to local residents. An assessment of the anticipated costs, risks and benefits associated with the project to County residents and any non-County residents that reside within 10 miles of any component of the facility, including related transmission/distribution infrastructure.
6.2.31 Incentive Programs. A description of any program that the applicant may offer to promote energy conservation and/or increase access for San Luis Valley residents to renewably-generated energy, including domestic and distributed scale installations.

6.3.32 Existing Land Uses. A written summary of the existing uses of the parcel.

6.2.33 Waiver. Documentation of the basis for any waiver that the applicant may request pursuant to this Section.

Note: Certain submittal requirements may be waived or modified by the Land Use Administrator if it is demonstrated that the material to be waived or modified is not applicable to the specific application.

XXII.7. APPLICATION and REVIEW PROCESS. Applicants for a Solar Energy Facility Permit shall comply with the following procedures:

7.1 Pre-Application Meeting.

7.1.1. All Applicants for a Solar Energy Facility permit may schedule and attend a pre-application meeting with a member of the Land Use Department before submitting an application. The purpose of the pre-application meeting is to inform the Applicant of the applicable procedures, submittal requirements, development standards, and other pertinent matters before the Applicant finalizes its proposal. If a formal permit application is not submitted within one hundred-eighty (180) days of the pre-application meeting, a new pre-application meeting must be scheduled and held before the formal application will be accepted.

7.1.2. If the applicant is not the surface owner it shall be the Applicant’s responsibility to invite relevant property owner(s) of the parcel(s) - to the pre-application meeting by sending a letter at least thirty (30) days in advance of the pre-application meeting inviting said property owner(s) to attend the meeting. Proof of such notice shall be submitted to the Land Use Department by a certificate of mailing.


Proposed Solar Energy Facilities over 5MW nameplate capacity require a County 1041 Permit, application for which shall be administratively processed by the Land Use Administrator or a designee, and presented to the Board of County Commissioners for final decision.

Proposed Solar Energy Facilities of 1MW up to 5MW nameplate capacity require a Conditional Use Permit, application for which shall be administratively processed by the by Land Use Administrator or a designee and presented to the Saguache County Planning Commission and Board of County Commissioners for final decision.

7.2.1. Determination of Completeness by Land Use Administrator. The Land Use Administrator or a designee shall determine whether the application is complete and includes all of the required information prior to beginning any review of an application under this Article. Other permit and/or assessment materials prepared for other permitting or review entities may suffice as a portion of the
application, subject to Administrative Review. The Land Use Department shall, within (ten) 10 days of receiving the application, notify the applicant in writing that the application is either complete or incomplete, or shall indicate a date by which such determination shall reasonably be made.

7.2.1.1. Application Is Not Complete. If the application is not complete, the Land Use Department shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied.

7.2.1.2. Failure To Correct Constitutes Withdrawal. If the applicant fails to correct the deficiencies within 60 days of the postmarked or certified date of the mailing of the notification of incompleteness, the application shall be considered withdrawn.

7.2.1.3. Application Is Complete. If the application is complete, the Land Use Department shall certify it as complete, assign the application an agenda date with the Planning Commission and provide notification of the meeting date to the applicant.

7.2.1.4. Completeness is not a determination of compliance. A determination that an application is complete shall not constitute a determination that it complies with the applicable standards of this Article.

7.2.2. Notice to Adjacent and Affected Property Owners.

7.2.2.1. When reasonable, the Land Use Department may provide written notice by certified mail to owners of real property within three miles of the subject parcel in which the Solar Energy Facility is proposed to be located, otherwise the notice shall be placed in the relevant newspaper(s). This notice shall be mailed within ten (10) business days of the application being determined complete by the Land Use Administrator. A copy of the notice will be provided to the applicant. The applicant shall pay the cost of mailing the notice. The notice shall include:

- Description of the Solar Energy Facility;
- Map showing the location of the proposed Facility, including a physical address and GPS coordinates;
- Identification of the Applicant and its designated agent, including contact information for the Applicant and its agent;
- Vicinity map showing the site, existing and proposed access roads; facilities to be constructed including transmission lines; and a description of the equipment proposed to be used or located upon the site, both during and after completion of the Facility; and
- The date of the public meeting of the Planning Commission(s) to review the application in accordance with subsection 7.6.1.

The property owners to whom notice is mailed be determined by the Land Use Department using the most current list of property owners maintained by the Office of the Saguache County Assessor. The notice to affected owners shall provide a statement that all written comments regarding the application must be received by the Land Use Department within thirty days after the
postmarked date of the notice, with such specific deadline referenced in the
Notice.

7.2.2.2. Subdivisions and Associations. If any part of an existing subdivision or
35-acre tract development is within 3 miles of the subject parcel in which
the Solar Energy Facility is proposed to be located, the Land Use
Department may notify all of the landowners within the existing subdivision
or 35-acre tract development. If any landowners required to be provided
notice are also members of a condominium or homeowner’s association, the
Land Use Department may also provide written notice to the association in
the same manner as other landowners.

7.2.2.3. The Applicant may post a notice (to be obtained from the Land Use
Department) in a conspicuous place on the property or closest public
roadway within 5 days of the submittal of the solar energy facility permit
application to the Land Use Department. The Applicant may submit to the
Land Use Department a photograph of the posted notice taken at the time of
posting, which displays the date and time of said posting.

7.2.2.4. It shall be the responsibility of the notified landowner(s) to give notice of
the proposed operation to any affected tenants of the proposed facility. The
Land Use Department shall notify the landowner of this responsibility.

7.3. Land Use Department Review. The Land Use Department shall review the
application. The express purpose of the review is to ensure that the proposal
complies with all applicable development standards and requirements.

7.4. Review by Referral Agencies. The Land Use Department may require the
application materials or any portion thereof be submitted for professional analysis
and recommendations by any other review agency, organization, or technical
consultant deemed appropriate and necessary to complete the review, including
other County offices and departments, municipal, state, or federal agencies having an
interest in or authority over all or part of the proposal, and other reasonable
substantive experts and legal consultants. The applicant shall be responsible for all
necessary costs associated with the referral. The referral review and comment period
shall be thirty (30) business days from the date that the application is deemed
complete.

7.5. Report. Following the referral review and comment period, the Land Use
Department shall prepare a report that identifies whether the Solar Energy Facility
complies with the Standards set forth in this Article.

7.6. Public Review Procedure. All applications for permits for solar energy facilities of
1MW up to 5MW shall be scheduled for public review according to the following
process:

7.6.1. Review by Planning Commission. The application for a Solar Energy
Facility Permit shall be considered by the relevant Planning Commission(s)
following a properly noticed public meeting.

7.6.2. Schedule Public Meeting by Planning Commission(s). A public meeting of
the relevant Planning Commission(s) shall be scheduled within forty-five (45)
calendar days of the date of completeness determination, if possible, or as soon as possible thereafter.

7.6.3. Notice of Public Meeting. Public notice shall be given as follows:

7.6.3.1. Publication of Notice. The notice shall be published no less than thirty (30) days prior to the date of the meeting, in the newspaper of record and any other publication(s) deemed necessary and appropriate by the Land Use Administrator.

7.6.3.2. Notice to Affected Parties. No less than thirty (30) days prior to the date of the public meeting of the Planning Commission(s) to review the application, the Land Use Department shall provide written notice by certified mail to affected parties as defined in Section 7.2.2.

7.6.4. Planning Commission Recommendation. Following the public meeting, the relevant Planning Commission(s) shall recommend to the Board of County Commissioners that the application for a Solar Energy Facility Permit be approved, approved partially, approved with conditions, or denied, based upon the Solar Energy Facility Standards set forth in Sections 7.6.6. and 8 of this Article.

7.6.5. Review and Decision by Board of County Commissioners.

7.6.5.1. Schedule of Public Hearing. After the Planning Commission(s) conveyance of recommendation(s) to the Board of County Commissioners, the permit application shall be placed on the Board’s agenda and a public hearing scheduled. Notice of the public hearing shall be made as detailed in section 7.6.3. The public hearing shall be conducted in accordance with Section 11 of this Article.

7.6.5.2. Oral Announcement. Immediately following the public hearing, the Board shall proceed to verbally render its provisional decision on the application, or it shall take the matter under advisement until an announced date certain.

7.6.5.3. Written Resolution. Following the Board of County Commissioners' oral announcement of its decision, a written resolution shall be adopted as its final action or decision on the application. This written resolution shall set forth findings based upon competent evidence in the record of proceedings before the Board and any applicable federal, state or county statutes, rules, regulations or policies. The Land Use Department shall prepare the written resolution for the Board of County Commissioners' consideration within fifteen (15) days of the verbal decision, or such period of time as the Board of County Commissioners shall specify.

7.6.5.4. Final Decision. For the purposes of judicial review, the Board of County Commissioners' final action or decision on an application shall be deemed to have been made as of the date upon which the Board of County Commissioners executes the written resolution, which shall constitute the Board of County Commissioners' final action or decision.

7.6.6. Review Criteria: Review and decision to approve, approve partially, approve with conditions or deny an application for a solar energy facility permit may be made and determined based upon its compliance with all performance
standards and other requirements of this Article and by applying the following
criteria deemed applicable by the BOCC to the evidence in the record of
proceedings before the Planning Commission and the Board of County
Commissioners:

7.6.6.1 Need. The demonstrated need for the facility, of the scale and in the
location proposed, to serve the applicant’s existing and projected renewable
energy production and operational requirements.

7.6.6.2. Suitability. Suitability of the size, location and type of the proposed
facility given its design, operational characteristics. Factors to be considered
include, but are not limited to: visual impacts, including lighting; wildlife
impacts; impacts upon water quantity and quality; impacts to air quality,
vegetation and noise levels; appropriate scale; and public safety factors.

7.6.6.3. Adequacy of Existing Roads and Access to the Site. Consideration
of existing and proposed road alignment, intersections, condition, structure
and site distances; traffic volumes and types of equipment; dust control;
existing road uses; and documentation of the Applicant’s legal right to use the
proposed access (es).

7.6.6.4. Site Characteristics. Factors to be considered include, but are not
limited to: topography, natural hazards (landslides, flooding, wildfire), current
resource values (water resources; open space corridor, prime agricultural land,
other potential minerals, wildlife habitat, recreational), identified natural
heritage, historic, cultural and archeological sites, and other special
designations under various provisions of the Land Development Code, such as
significant recharge areas.

7.6.6.5. Compatibility. Compatibility with existing uses and those which can
reasonably be anticipated, based upon present subdivision and land use
approvals for properties located within the surrounding affected area, as
determined by the Board of County Commissioners, based upon competent
evidence in the record. A Facility's compatibility with land uses in the
surrounding area which the Board of County Commissioners finds will be
affected by its operation, may be determined by the applicant's projected ability
to minimize and mitigate the impacts which it generates, as set forth in the
facility’s operational plan. Provisions of the operational plan may be in
accordance with proven management practices that are designed to protect the
public health, safety and welfare, and the value and integrity of the surface
estate and other natural, cultural, agricultural resources, and with all applicable
County regulations and standards.

7.6.6.6. Benefits in excess of costs to affected residents. In addition to
mitigating any negative impacts, the proposed development is encouraged to
create a net benefit to local residents, such as high quality employment and
training opportunities and/or increased access to affordable renewable energy
and conservation applications for homes, farms, ranches, businesses and public
facilities.

7.7. Coordination with State or Federal Actions and County Permitting Process
Final action by the County on a Solar Energy Facility application may be delayed until
any required Environmental Assessment (EA), Environmental Impact Statement
(EIS) or other permit by a state or federal agency is issued, so that the County will have the benefit of the analysis and determinations made by other entities in reaching its own decision.


8.1. Rights and Responsibilities. Recognizing the need to develop renewable energy resources, acknowledging the right of property owners to preserve the value of their property, and the right of the county to regulate land uses to protect and promote the health, safety and well-being of the public and environment, the following criteria shall be used in siting solar energy facilities. Facilities that cannot comply with these criteria may be denied. All negative impacts of installation and operation will be required to be mitigated to an acceptable standard. The County shall determine the compliance of the proposal using the standards contained in this Section. Standards are listed in the order of their importance. Where conflicts between standards occur, the higher ranked standard will be used.

8.1.1. Facilities shall be located to maximize, to the extent feasible, use of existing infrastructure. This includes, but is not limited to, the use of existing roads, transmission and distribution infrastructure and rights-of-way.

8.1.2. All facilities shall be located to minimize any negative impacts to wildlife habitats, corridors and flyways.

8.1.3. All facilities shall be designed and located to minimize negative impacts to view shed.

8.1.4. All facilities shall be located to minimize any negative impacts to adjacent residences, agricultural operations, commercial structures, public buildings, county approved platted building envelopes, and ongoing agricultural operations in accordance with all provisions of this Article.

8.1.5. The standards in this Code shall not cause the operator to site the facility in: a geologic hazard area; an area with slopes exceeding five (5) percent; an area of wetlands under the jurisdiction of the U.S. Army Corps of Engineers; an area within a floodway of a stream or river as shown on the Flood Insurance Rate Maps (FIRM) or as determined by a state licensed professional engineer.

8.2. Location of Solar Arrays.

Finding: The County finds that scenic resources are primary to the County’s economy and quality of life, and that the high quality of our vistas should be maintained to the maximum extent feasible. Therefore the County finds that the potential impacts attendant to solar energy development would be best mitigated for the County as a whole if solar energy capture facilities are designed and sited to minimize the visual impact to the County’s scenic vistas.

8.2.1. Facilities shall be planned so that the facility occupies and disturbs the least surface area feasible to ensure safe, effective, and efficient operations.

8.2.2. Facilities shall be sited with due consideration to:

8.2.2.1. Topographic characteristics of the site;
8.2.2.2. Existing view shed;
8.2.2.3. Natural resource constraints (e.g. wetlands, wildlife corridors);
8.2.2.4. The location of utilities or similar services;
8.2.2.5. Impacts to the water table and water rights of proximal users;
8.2.2.6. Geologic factors;
8.2.2.7. Safety and security concerns;
8.2.2.8. Any other relevant factor.

8.3. Land Use Coordination Standards.

8.3.1. Purpose: The purpose of these standards for the coordination of land uses is to minimize conflicts between solar energy facilities and other land uses.

Setback requirements will be according to the characteristics of the proposed site of the Facility, and the existing or planned land uses and other resources proximal thereto.

8.3.3. Visual Impacts.

8.3.3.1. The maximum extent possible, the applicant may use structures and equipment of the minimum size necessary to satisfy functional requirements.

8.3.3.2. Pursuant to Article IV of this Code, solar power tower installations over 40 feet in height will only be approved exceptionally, if the applicant can successfully demonstrate that:
   a. Installation can fit harmoniously into the surrounding landscape of the proposed site, or
   b. no effective and feasible alternative exists which fulfills the energy generation goals of the facility.

8.3.3.4. The applicant may replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site.

8.3.3.5. To the maximum extent possible, the applicant may align access roads to follow existing grades and minimize cuts and fills.

8.3.3.6. All facilities may be in color tones that provide maximum blending with the surrounding land.

8.3.3.7. The County recognizes that the Facility will have a limited life, or the Facility as initially constructed, may be replaced by new technology. In the event that portions of the Facility become unutilized during Facility’s operational life, the Applicant or its successor(s) shall dispose of any unused equipment and reclaim any unused portions of the site within the time periods delineated in this Section.

8.3.3.8. During operations, landscaping practices that are appropriate to the surrounding territory and vegetation may be applied on a site-specific basis, within the parameters of the energy generation purposes of the facility.

8.3.3.9. Exterior lighting, when required, shall meet the standards set forth under the Land Development Code. All lighting associated with solar energy development will be shielded to prevent direct visibility of the source of light from off-site, directing all exterior lighting either toward the ground or the surface of the building. The minimum lighting necessary to effectively carry out operations safely may be used.
8.3.3.10. Where possible, facilities shall consider siting in areas that maximize the amount of natural screening available for the facility. Natural screening includes, but is not limited to, the use of existing vegetation as a background, the construction of the facility near mature stands of vegetation or behind ridges and natural rock formations.

a. All facilities shall be sited to avoid crossing hills and ridges or silhouetting;
b. All facilities shall be sited in order to minimize the amount of cut and fill needed to construct the facility.

8.3.3.11. All facilities shall be sited away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings and other landmarks.

8.3.4. Safety and Security

8.3.4.1. Safety practices generally accepted by the solar energy industry shall be used at all times during facility construction and operation to minimize the danger to the general public.

8.3.4.2. All land within twenty-five (25) feet of any tank or other structure containing flammable or combustible materials shall be kept free of dry weeds, grass or rubbish.

8.3.4.3. Where the applicant's visual mitigation plan specifies alternative security fencing, the alternative fencing may apply.

8.3.5. Sound Emissions.

Findings: 70% of the land in Saguache County is publicly owned: national forest, national park, BLM-managed lands, wildlife refuge, wilderness areas, etc. Ambient sound levels are lower in most locations (20-35dBA daytime) than the standard for rural residential areas (55dBA).

In some areas of the County, the viability of the facilities and activities that form the economic base for the community is dependent on quietude.

Sound levels are measured in decibels, and increase logarithmically. The acoustic energy between 25dBA and 45dBA is an increase in sound pressure energy of 100 times and represents a six fold increase in subjective sound perception. The increase of sound energy from 15dBA to 45dBA is 1000 times, and an increase in sound energy level from 15dBA to 55dBA is 10,000. Therefore, any determination of “acceptable” sound levels cannot be arbitrary or absolute, but must take into account the ambient sound levels existing on the parcel prior to the commencement of operations.

8.3.5.1. All construction, maintenance, and operations of the solar energy facility, including substations, may be conducted in such a manner so as to make the least noise possible.

8.3.5.2. The exhaust from all engines, motors, coolers and other mechanized equipment, including compressor station fans, may be vented in a direction away from the closest existing building units or platted subdivision lots. (See
8.3.5.3. All facilities with engines or motors, not electrically operated, may be equipped with quiet design mufflers (also referred to as “hospital grade” or “dual dissipative”) or equivalent. Such equipment may be properly installed and maintained in proper working order.

8.3.5.4. All facilities that have compressors, engines, or motors which generate sound and are located within 400 feet of an existing residence, office, institutional, commercial or industrial structure; or within 400 feet of known wildlife habitat and/or migration routes; or within 400 feet of recreational areas, must be placed behind a maintained, acoustically insulated housing or a cover enclosing the motor or engine to further reduce sound and lessen visual impact.

8.3.5.5. In determining noise mitigation requirements, specific site characteristics may be considered, including but not limited to:
   a. Nature and proximity of adjacent development (design, location, type)
   b. Prevailing weather patterns, including wind direction.
   c. Vegetative cover on or adjacent to the site.
   d. Topography.

8.3.5.6. Based upon the specific site characteristics set forth in this Section, the nature of the proposed activity, its proximity to surrounding development, and type and intensity of the noise emitted, one or more of the noise abatement measures listed below may be additionally required:
   a. Acoustically insulated enclosures for motors/engines.
   b. Vegetative screen of trees and shrubs that may be placed within a fenced enclosure.
   c. Solid wall, fence or berm of acoustically insulating material surrounding all or part of the facility.
   d. Acoustically insulated building enclosing the installation.
   e. Restrictions on hours of operation of certain activities

8.3.5.7. Sound levels may be monitored pursuant to Section 9.3.2 of this Article.

8.4. Environmental Quality Standards:

8.4.1. Water Quality & Consumption:

The value of both surface and ground water and the life and lands that depend on them is immeasurable. The County finds that the protection of the water resources is of primary importance, and must be adequately ensured by any applicant for a solar energy facility permit.

8.4.1.1. Consumptive Use. Utility scale facilities are encouraged to utilize solar technologies that minimize the consumptive use of groundwater resources.

8.4.1.2. Water quality. The solar energy facility may not cause significant degradation to water resources, including surface waters, water wells or the aquifer.

8.4.1.3. Water body setbacks.
a. Non-polluting activities associated with the solar energy facility may be located a minimum of 150 feet from the normal high water mark of any water body.

b. Any potentially polluting activity associated with the solar energy facility may be located a minimum of 1000 feet from the normal high water mark of any water body.

### 8.4.1.4. Hazardous materials.

To the maximum extent feasible and effective, environment-friendly materials may be used as thermal storage, heat transfer and phase change media, coolants, fuels, hydraulic fluids, lubricants and weed control. If it can be demonstrated that toxic substances must be utilized, reasonable and effective management and maintenance measures must be employed to prevent any release of such hazardous materials to the environment.

### 8.4.1.5. Secondary containment.

Secondary containment may be constructed or installed around all tanks containing thermal storage media; fuel supplies or other substances that, if released, have the potential to measurably degrade ground and surface water quality. Secondary containment structures must be sufficient to contain the contents of the largest single tank in the project area plus sufficient freeboard to contain precipitation, and be sufficiently impervious to contain discharged material.

### 8.4.1.6. Storm water.

The operator shall submit a storm water management plan and comply, at a minimum, with State storm water management standards, if required.

### 8.4.1.7. Monitoring.

An approved or conditionally approved Facility may comply with the following requirements:

- a. All solar energy facilities shall comply with all applicable state water quality standards and classifications established by the Water Quality Control Commission.

- b. Identify the physical source of the water to be used for the facility and legal entitlement to use such water (e.g., Water Court decree).

- c. Onsite containment and disposal of water associated with facilities shall be in accordance with applicable federal, state and county requirements and all other provisions of this Article.

### 8.4.2. Air Quality.

**Finding:** The County notes that the San Luis Valley has been found to be one of the most optimal sites for solar energy generation in the United States.

#### 8.4.2.1. No solar energy facility may cause significant degradation to air quality.

Specifically, all standards and requirements under the Clean Air Act and Organic Act for the preservation of the Class 1 Airshed of the Great Sand Dunes National Park and Preserve and other applicable public lands may be met.

#### 8.4.2.2. Air emissions from the operation may be, at a minimum, in compliance with the permit and control provisions of the Colorado Air Quality Control Program, Title 25, Section 7, C.R.S.

#### 8.4.2.3. Odors and Dust.

Solar energy facilities and equipment may be operated in such a manner that odors and dust do not constitute a nuisance or hazard to
public health, safety, welfare, and the environment.

a. **Fugitive dust.** Operators may employ practices for control of fugitive dust. Such practices may include but are not limited to the use of speed restrictions, regular road maintenance, and restriction of construction activity during high-wind days. Additional management practices such as road surfacing, wind breaks and barriers, and plantation of ground cover may also be implemented.

b. Any solar facility operator engaged in clearing or leveling of land or who is the owner or operator of land that has been cleared that is greater than five (5) acres in attainment areas or one (1) acre in non-attainment areas from which fugitive dust will be emitted may be required to use all available and practical methods which are technologically feasible and economically reasonable to minimize such fugitive dust emissions.

8.4.2.4. **Emission Control Equipment:** The operator may comply with existing EPA rules and any future regulations validly adopted by an authority. To the maximum extent possible, all fossil fuel powered engines used on site may employ the latest emission-reduction technologies, e.g. high-pressure direct injection (HPDI) of fuel and exhaust gas recirculation (EGR).

8.4.3. **Wildlife and Species of Concern.**

8.4.3.1. The solar energy facility shall not cause significant degradation of wildlife, including any federal, state or Colorado Natural Heritage Program-identified species of concern, or to their habitat.

8.4.3.2. At a minimum, the facility shall comply with all CDOM recommendations regarding solar energy facility siting, construction, operation and maintenance in Colorado.

8.4.3.5. **Multiple Site Plan.** In lieu of a site-specific mitigation review for each facility, the applicant may submit to the Land Use Department a multi-site plan addressing cumulative impacts to wildlife from the estimated total number of facilities. The multi-site plan shall include, but not be limited to, all items under this Section.

8.4.3.6. **Non-litigable Impacts.** Impacts from solar energy facilities that threaten endangered species (as defined by the Colorado Division of Wildlife) may be considered non-litigable and grounds for either denial of the permit or request for relocation of the site.

8.4.4. **Geologic Hazard Areas; Floodplains.** The applicant may demonstrate that a Major Facility is not located within a geologic hazard area as determined by the State of Colorado Geological Survey.

8.4.5. **Waste Management and Disposal:**

8.4.5.1. When a minor or major facility becomes operational, all construction-related debris may be removed from the site. The site may be maintained free of debris and excess materials at all times during operation.

8.4.5.2. No burning of trash may occur on the site.

8.4.5.3. Bear-proof dumpsters and trash receptacles may be utilized at all facilities.
8.4.5.4. All human waste may be fully contained and disposed of in accordance with all County regulations.

8.4.5.5. A written management plan for waste minimization through beneficial reuse and recycling of waste is required. The plan may describe the proposed use of the waste, method of waste treatment, product quality assurance and may include a copy of any certification or authorization that may be required by other laws, rules or regulations.

8.5. Surface Disturbance Standards

Purpose: The purpose of this section is to minimize negative impacts to surface activities and surface conditions.

8.5.1. Agricultural Resources: Solar energy facilities shall be located so as to avoid the unreasonable loss of productive agricultural land.

8.5.2. Cultural and Historic Resources – The solar energy facility may not cause significant degradation of cultural, historic, or scientific resources or significant disturbance to archeological sites.

All requirements under the following Acts may be met: the National Historic Preservation Act, including Section 106; the Native American Grave Protection and Repatriation Act; and the American Indian Religious Freedom Act.

8.5.4. Roads and Access:

8.5.4.1. Ingress and Egress. Ingress and egress points to public roads may be located, maintained and improved to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.

8.5.4.2. Improvements. Installation of facilities which are accessible by non-maintained roads included in the county road system, which the County Road & Bridge Supervisor determines are inadequate to safely accommodate the additional traffic associated with the operation of the facility, may be permitted only if such roads are improved and maintained by the operator to a level which the County Road & Bridge Supervisor determines is necessary to allow such traffic to use such roads in accordance with applicable state and county standards.

8.5.4.3. Use of Existing Roads. With the exception of such circumstances and other operational requirements or limitations imposed by existing contractual agreements or government regulations (e.g. CDOT access permits), the operator may use existing roads and easements.

8.5.4.4. Use of Subdivision Roads. In those instances where an Operator accesses a Facility via a road or roads within a subdivision and a governing entity exists (e.g. homeowners’ association) with legal authority to bind the entity and its members, and with the authority to grant access rights over such roads and/or negotiate agreements with respect to their use, the operator will negotiate a fair and reasonable road maintenance or road improvement agreement with such entity for the purpose of paying or making in-kind contributions for its
pro rata share of the cost of maintaining or improving the affected road(s). Such agreement or memorandum shall be recorded with the Clerk and Recorder.

8.5.4.5. **Access Roads.** Access Roads serving Facilities, including existing and/or proposed roads that connect a Facility to a county road or state highway may be reviewed in accordance with this Section and Section III of the Saguache County Land Development Code and may be subject to all applicable impact fees. All access and oversize or overweight vehicle permits must be obtained from Saguache County Road & Bridge Department prior to beginning construction of a facility or use of a County road. All proposed transportation routes to the site may be reviewed and approved to minimize traffic hazards and adverse impacts on County roadways. Existing roads may be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts are determined to require new or additional roads, or unless the applicant demonstrates to the County's satisfaction that it has been unable to obtain authorization to use an existing road.

8.5.4.6. **Private Access Roads.** For those Access Roads located between the parcel on which a Facility is proposed and the county road or state highway serving such a Facility, the applicant may provide written documentation as part of the application demonstrating that it has the legal right to use such road(s) for the purpose of accessing the Facility and the applicant may demonstrate that such road(s) can provide adequate physical access to the proposed Facility, in accordance with applicable Land Development Code standards.

8.5.4.7. **Maintenance Agreement.** If the projected use of the public roads resulting from the solar energy facility will result in a need for an increase in roadway maintenance or snow removal on County roads, the County may require the Operator to:

a. Reimburse the County for any short term costs; and

b. Provide a bond or other financial assurance in an amount acceptable to the County to cover any costs of repairing longer term impacts to roads due to the operation that have not been offset by overweight vehicle fees and impact fees.

8.5.4.8. **State Highway Access.** If access is directly off of a State Highway, the applicant must have an approved State Highway Access Permit for the proposed facility.

8.5.4.9. **Use of Equipment.** The operator shall:

Remove and restore the condition of the road as promptly as is reasonable under the circumstances if mud and/or debris are tracked onto the County road by the operator’s equipment.

8.5.4.10. **Hazardous Materials** – Full disclosure, including Material Safety Data Sheets, of all hazardous materials that will be transported on any public or private roadway within the County for the solar energy facility must be provided to the Saguache County Office of Emergency Management. This information will be held in strictest confidence and shared with other emergency response personnel only on a “need-to-know” basis.

8.5. **Weed Control.**
The Applicant may be responsible for ongoing weed control for all permitted Facilities and the access roads under applicant’s control leading to such Facilities. The appropriate weed control methods and species to be controlled may be determined through review and recommendation of the Natural Resource Conservation Service (NRCS), the CSU Extension Service and the Saguache County Weed Manager or designee, in accordance with Colorado Noxious Weed Act and any applicable Resolution of the Board of County Commissioners for the management and eradication of noxious weeds in Saguache County.

8.5.6. Reclamation. Interim and final reclamation may be governed by the approved reclamation plan for the facility.

8.5.7.1. The reclamation plan may provide for a reasonable reclamation schedule considering the specific surface use and surrounding land uses.

8.5.6.2. Interim reclamation should take place on an ongoing basis throughout the duration of the project.

8.5.6.3. If the Applicant is not the surface owner, all equipment used for construction, operation and maintenance of an operational facility may be removed from the site within thirty (30) days of completion of the work for which the equipment is used, unless otherwise agreed to by the surface owner. Permanent storage of non-essential equipment on major solar energy generation sites may not be allowed, unless otherwise agreed to by the surface owner and determined by Saguache County to be in conformance with the applicable Land Development Code standards.

Upon permanent closure of the Facility or cessation of the production of energy from the Facility, the operator may begin disposal of equipment and reclamation of the Facility and site within six (6) months of closure or cessation of energy production from the Facility.

8.5.6.4. Re-vegetation Plan. Where facilities reduce or destroy existing vegetation, the applicant in consultation with the NRCS and the Center Conservation District shall develop a re-vegetation plan for the site.

8.5.6.5. Road Design and Construction. Roads should be designed and constructed to allow for successful interim and eventual final reclamation. Re-vegetation of roads, ditches and cut and fill slopes will help stabilize exposed soils and reduce sediment loss, reduce the growth of noxious weeds, reduce maintenance costs, maintain scenic quality and forage, and protect habitat. To ensure successful growth of plants and forbs, topsoil must be salvaged where available during road construction and re-spread to the greatest degree practical on cut slopes, fill slopes, and borrow ditches prior to seeding. To ensure stability of freshly top soiled slopes during re-vegetation, the application of mulch or other sediment control may be appropriate.

8.5.6.6. Primitive Roads. The appropriateness of primitive roads or routes is site/use specific and is based on factors such as anticipated dry or frozen soil conditions, seasonal weather conditions, flat terrain, low anticipated traffic, or operator’s access needs. Operators should not flat-blade roads. Drainage must
be maintained to avoid erosion or the creation of a muddy, braided road.
Resource damage must be repaired as soon as possible and the operator will
consult with the County and, if the applicant is not the surface owner, private
surface owner(s) to determine if all or a portion of the road needs to be upgraded
to an all-weather access road.

8.5.6.7. Protection and Monitoring - Newly reclaimed areas should be
adequately fenced for two years or until interim reclamation vegetation is
established. Interim and final reclamation progress of all disturbed areas may be
monitored with a standardized evaluation and monitoring protocol to include the
establishment of photo points and vegetative cover measurements approved by the
NRCS and the Center Conservation District.

8.5.6.7. Previously approved and established reclamation or mitigation projects or
sites may not be developed or otherwise impacted without replacement in-kind.


9.1. Emergency Preparedness and Response Plan Required. The applicant for a solar
energy facility must submit an emergency preparedness and response plan to the Saguache
County Office of Emergency Management for review and recommendation. The Plan may
be approved by the Board of County Commissioners. The plan is subject to approval by
the BoCC and shall be filed with the County and updated on an annual basis or as
conditions change (e.g. turnover in responsible field personnel, change in substances used).
The emergency plan may consist of the following information, at a minimum:

9.1.1. Name, address and phone number, including a twenty-four (24) hour emergency
number of at least two (2) persons responsible for emergency field operations.

9.1.2. A printed map, including GPS coordinates, showing the name, location and
description of all project-related facilities. The map may be prepared digitally on
county geographic information system parcel maps. The as-built facilities map will be
held confidentially by the county’s emergency management officer or other County
designee, and may only be disclosed as needed in the event of an emergency.

9.1.3. A written response plan for the potential emergencies that may be associated with
the operation of the facilities.


9.2. Inspections.

9.2.1. 24 hour contact - The applicant may provide the telephone number of a contact
person who may be reached 24 hours a day for purposes of being notified of any
proposed County inspection under this Section or in case of emergency. The cost
of any inspection deemed reasonable and necessary by the County may be borne
by the applicant.

9.2.2. Right to Enter - For the purpose of implementing and enforcing this Article,
duly authorized County personnel may enter onto subject property upon
notification of the permittee, lessee or other party holding a legal interest in the
property. If such entry is denied, the County may have the right to obtain an
order from a court of competent jurisdiction to obtain entry.
9.3. Financial Assurance

9.3.1. Bonding. To ensure compliance with the mitigation and other performance requirements of this Section and the specific conditions for approval for all facilities, the applicant, shall provide such security as set forth in this Section.

9.3.1.1. Performance Bonds.

a. A performance bond in the amount of at least $10,000; and

b. An additional, site specific performance bond, which may be 100% of the estimated actual cost of removal of surface facilities and restoration of, disturbed surface areas. The amount of such bonds will be based upon cost estimates provided by the Operator subject to review and approval by the County and subject to increase or decrease based upon revised cost estimates required to be provided by Operator on an annual basis, dating from initial approval of the application.

c. As a condition of approval, the required performance bond(s) may be in place before any activity permitted by the approval commences. The performance bond may remain in place until all obligations contemplated by the bond have been fulfilled to the satisfaction of the County.

d. The form of the performance bond may consist of cash, certificates of deposit, an irrevocable letter of credit or equivalent financial security acceptable to the County.

e. Upon notification by the operator that obligations contemplated by the bond have been fulfilled or that work contemplated by the bond will not be necessary, the County may have 90 days to accept or reject Operator’s request to reduce or retire the bonding requirement.

9.3.1.2. Road Mitigation Bond. In addition to the performance security described above, if the permitted Facility will utilize County roads to access the facility, a road mitigation bond may be required to ensure adequate repair and restoration of County roads from any damages due to facility-related use, as stipulated in Section 8.5.6.7. Any road mitigation bond requirement will be determined on an application-by-application basis depending upon roads utilized, miles traveled, type of Facility to be operated, weight of vehicles and the traffic generated thereby.

The road mitigation bond may be determined by the Board of County Commissioners, in consultation with the County Road and Bridge Supervisor and/or, if deemed necessary, a licensed civil engineer, as part of the approval of the Facility.

9.3.1.3. Emergency Response Bond.

a. Operators may also be required to post bonds sufficient to cover the estimated cost of emergency response to hazardous material spills, fires and accidents that may reasonably be expected to have a significant chance of occurrence. The amount of such bonds will be determined on a case-by-case basis by the designated County authority taking into consideration the nature and scope of risks imposed by the operations.

b. In the event that the County determines that neither the Operator or its Subcontractors nor the County is capable of providing adequate emergency response...
response, the Operator will be required to provide a contract with a party capable of providing the unmet response need, subject to the approval of the County, in addition to a bond to cover emergency response costs that the County is able to provide. The county may revise the amount of the required bond or the requirement for an emergency response contract at any time based upon new information by giving 30 days notice. If Operator or Subcontractor fails to comply with any new requirement at the end of the notice period, operations may be suspended until such time as the new requirement is met.

9.3.1.4. Transfer of Interest. An Operator may not be allowed to transfer its interest in, nor be replaced as Operator of permitted solar energy facilities unless and until bonding requirements for the transferee or new operator have been set by the County and met prior to the date of transfer or replacement.

9.3.2. Indemnification and Liability Insurance. The Operator may provide or cause to be provided the insurance described below for facility for which a solar energy facility permit is issued, such insurance to continue until the well is abandoned and the site restored.

9.3.2.1. Indemnification and Express Negligence Provisions. Each permit for a solar energy facility issued by the County may include the following language: “Operator does hereby expressly release and discharge all claims, demands, actions, judgments, and executions which it ever had, or now has or may have, or its successors or assigns may have, or claim to have, against Saguache County, and/or its departments, its agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the Operator under a solar energy facility permit issued by the County, or caused by or arising out of, that sequence of events which occur from the Operator’s actions under the solar energy facility permit or work performed by the Operator. The Operator shall fully defend, protect, indemnify, and hold harmless Saguache County and/or its departments, agents, officers, servants, successors, assigns, sponsors, or volunteers, or employees from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of Saguache County and/or its departments, its agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by Operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the Operator under a solar energy facility permit and the Operator agrees to indemnify and hold harmless Saguache County and/or its departments, its agents, officers, servants, successors, assigns, sponsors, volunteers, or employees from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the County and/or, its departments, its agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of the acts or omissions of Saguache
County occurring on the facility site. It is understood and agreed that the indemnity provided for in this section is an indemnity extended by the operator to indemnify and protect Saguache County and/or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees from the consequences of the negligence of Saguache County, its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, whether that negligence is the sole or contributing cause of the resultant injury, death, and/or damage. Liability for the sole negligence of the county in the course and scope of its duty to inspect and permit the solar energy facility is limited to the maximum amount of recovery under the tort claims act.”

9.3.2.2. Liability Insurance. Operators may be required to carry insurance against personal injury, property damage, environmental damage and general liability in amounts to be determined by the County in reasonable relationship to the risks presented by the scope of operations to be permitted. This amount may be subject to annual review and revision by the County and may be reviewed and may be revised at any time following an incident involving substantial damage. All Subcontractors employed by the Operator may be subject to insurance requirements bearing a reasonable relationship to the nature and scope of work to be done for the operator as evidenced by the contract with Subcontractor, which may be submitted, to the County at least 30 days prior to commencement of any work. No work may commence until the County requirement for insurance has been determined and evidence of insurance has been submitted to the County Land Use Department from an insurer licensed to operate in the State of Colorado. Required insurance coverage may be provided by insurers with an A. M. Best rating of at least A (VIII) or by a self-insurance program approved by the Colorado Insurance Commission and re-approved on an annual basis. Insurance certificates may require at least 30 days’ notice to the County prior to termination of coverage for any reason and may include the County as a named insured. The amount of any deductible and the existence of any exclusion are subject to approval by the County as reasonably within the financial responsibility of the Operator or Subcontractor. Insurance and self-insurance programs may be reviewed annually and insurance requirements may be revised at any time based on changed circumstances with 30 days notice. If new insurance requirements are not met within the 30 days notice period, the affected operations of Operators or Sub-contractors may be terminated until such time as the new insurance requirement is met.

9.3.2.3. Insurance guidelines. Nothing in this section is intended to limit the liability of the operator in the event that damages exceed the covered amounts. The County reserves the right to pursue every means available to recover actual costs associated with damages of any kind related to the solar energy facility from any and all responsible and/or interested parties.

9.3.2.4. Certificates and Policies of Insurance. Certificates of insurance must be provided to the County Land Use Department evidencing all coverage and endorsements required by this section with the solar energy facility permit application, and the acceptance of a certificate without the required limits and/or coverage may not be deemed a waiver of these
requirements. Copies of original policies confirming coverage must be provided prior to the issuance of a Permit.

**9.3.2.5. Failure to Maintain Insurance Cause for Revocation of Permit.** Substantive violations (that is, a failure at any time for any reason) to have in force required insurance coverage may result in revocation of the permit to operate and all permitted operations may cease consistent with safety considerations until a valid insurance certificate has been supplied to the County Land Use Department. In addition, as a condition to reinstate the permit, the Operator or Subcontractor may be subject to payment of a per diem fine to be set by the County Commissioners according to the scale and scope of the operation, for each day of operation without required insurance coverage in force, and a showing that they have a plan in place to insure that future violations will not occur.

**9.3.2.6. Operators and Subcontractors Dually Responsible.** For clarity, the performance of any work on Operator’s premises by a Subcontractor who has not met fully met these requirements in advance may be deemed a substantive violation by the Operator and may also be deemed a substantive violation by the Subcontractor or grounds for refusal to approve operation in the County by Subcontractor.

**9.3.2.7. Responsibility of Parent Companies and Non-operating Economic Interests.** Any Operator or Subcontractor who is a subsidiary of another company may provide a guarantee of its obligations from its parent company. Any non-operating entity which has a financial interest of any kind in Operator’s activities may be required by the County to demonstrate financial responsibility appropriate to the nature and extent of its interests as determined by the County which may include but is not limited to liability insurance coverage. Solar energy facility permit applicants are required to disclose in their application the existence and nature of any non-operating economic interests and any new such interests that are to be created at least 60 days before the effective date. The County may impose insurance or other financial responsibility requirements on the non-operating interest holder as a condition of the continuing validity of Operator’s permit.

XXII.10. Exceptions/Limitations/Amendments/Penalties

**10.1. Special Exception Requests:**

10.1.1. The applicant may request special exceptions to provisions of this Article. Requests for special exceptions for proposed facilities may include, but not be limited to, one or more of the following factors:

10.1.1.1. Topographic characteristics of the site;
10.1.1.2. Duration of use of the facility;
10.1.1.3. Proximity of the facility to occupied structures;
10.1.1.4. Ownership status of adjacent and/or affected land;
10.1.1.5. Construction of adequate infrastructure to serve the project; or
10.1.1.6. Planned replacement and/or upgrading of facility equipment.

10.1.2. If the Board of County Commissioners finds, based upon competent evidence in the record, that compliance with certain portions of this Article is impossible or
unreasonable, a special exception may be granted for a period of time not to exceed six (6) months. Upon completion of the six (6) month period, the application may receive additional review by the County. The Board of County Commissioners, upon showing of good cause by the applicant, may:

10.1.2.1. Further extend the special exception;

10.1.2.2. Require that the facility be brought into compliance with the performance standards; or

10.1.2.3. Revoke the special exception approval.

10.2. Operational Conflicts Special Exception: Special exceptions to this Section may be granted where the requirements of the section actually conflict in operation with the requirements of state law or regulations. The Board of County Commissioners may hear all applications where a special exception due to operational conflicts is requested in a noticed public hearing. The applicant may have the burden of pleading and proving both an actual, material, irreconcilable operational conflict between the requirements of this Section and those of the state law or regulation in question in the context of a specific application, and that compliance with the state law or regulation alone adequately fulfills the County’s responsibilities to protect and promote the health, safety, and convenience, order, prosperity and general welfare of the present and future residents of the county.

For purposes of this section, an operational conflict exists where the County condition of approval or regulation actually conflicts in operation with the state statutory or regulatory scheme, and such conflict would unreasonably materially impede or destroy the state’s interest in the development, production, and utilization of solar energy resources in the state, and/or the protection of the public health, safety and welfare. An operational conflict may occur where the County regulation prohibits an activity, which the state has clearly authorized, or authorizes an activity, which the state has clearly prohibited. Additional County requirements in areas regulated by the state which also falls within County land use powers and which are necessary to protect the public health, safety and welfare under the facts of the specific application presented, and which do not impose unreasonable burdens on the applicant, may be presumed not to present an operational conflict. If the Board of County Commissioners finds, based upon competent evidence in the record, that compliance with the requirements of this Article may result in operational conflicts with the state statutory and regulatory scheme, a special exception to this Article may be granted, in whole or in part, but only to the extent necessary to protect the State’s demonstrated compelling interest or to alleviate that burden on the applicant that has been found to be unreasonable. The Board of County Commissioners may condition the approval of a special exception as necessary to protect the public health, safety and welfare by mitigating any adverse impacts arising from the grant of approval.

10.3. Limitations.

10.3.1. General. Issuance of a solar energy facility permit may authorize only the facilities for which it is issued.

10.3.2. Permit Duration. Solar energy facility development may be commenced within two (2) years of the date of approval. Failure to commence the permitted activity within two (2) years may cause the permit to expire. A new permit may be approved subject to the submission and full review of a new application.

10.3.3. Validity. The permit may be valid for as long as the applicant maintains the conditions of approval.
10.3.4. Violations. If the conditions of approval of the permit are not maintained, the applicant may be considered in violation of these regulations and the permit subject to the penalty and revocation provisions of this Code.

10.4. Amendments.

10.4.1. Where a facility has been approved and the applicant desires to modify the subject facility by changes to equipment, site layout, approved operating plan, etc., an amendment to the original application may be required if the level of impact will be increased as a result of the modification. The activity described in the amendment to a minor or major facility will be granted administrative approval if it complies with the standards herein. (In cases where the amendment would consist of the addition of a major facility, review may be required as for a new major facility.

10.4.2. The Land Use Department may approve minor amendments to an approved solar energy facility. Authorized minor amendments include those that do not alter the basic intent and character of the approved permit, are consistent with the performance standards herein, are deemed necessary in light of technical and engineering considerations first discovered during actual construction, and could not have been reasonably anticipated during the initial review process.

10.4.3. Minor amendments must comply with all relevant Saguache County regulations. Minor amendments may include, but are not limited to, variations in the location of facility components which do not decrease the approved setback to residential or commercial structures, deviations to the location of access roads which are wholly contained on site and are approved by the owner of the surface rights, and modifications to the visual mitigation plan which do not adversely impact adjoining property owners or the general public.

10.4.4. Modifications which the applicant determines in good faith are required in order for the facility to continue operating and must be done immediately in order to maintain the existing level of production, may be done on an emergency basis, without prior notice to or approval by the Land Use Department, provided that such modifications do not pose any significant risk to the public health, safety and welfare. The applicant may provide the Land Use Department with notification of emergency modifications by filing a written amendment to the application, specifying the modifications made, within five (5) working days of their completion.

10.5. Penalties and Enforcement:

10.5.1. Civil Action: In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this Section; or an Applicant fails to comply with any other provisions of this Section or the Saguache County Land Use Code or fails to comply with any conditions placed upon any approval of a Facility, the County Attorney, or where the Board of County Commissioners deems it appropriate, the district attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use. In the event that enforcement action is required to be taken under the provisions of this Section, Saguache
County may be entitled to collect its reasonable attorneys fees and costs incurred in any such action from the Permitee.

10.5.2. False or Inaccurate Information: The Board of County Commissioners may revoke approval of a facility if it is determined at a public meeting, held on at least ten days notice to the applicant, that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants and employees knew, or reasonably should have known, was false, misleading, deceptive or inaccurate. The applicant and the Land Use Department may be provided with an opportunity to be heard at the public meeting prior to the Board of County Commissioners’ rendering its decision.

XXII.11. CONDUCT OF PUBLIC HEARING.

A public hearing may be conducted in accordance with the following process:

11.1. Rights of All Persons. Any person may appear at a public hearing and submit evidence, including oral testimony, either individually or as a representative of an organization. Comment may also be submitted in written form before or during the hearing, or within a period of time after the hearing has closed as designated by the review body chairperson.

11.2. Order of Proceedings. The order of the proceedings may be as follows:

11.2.1. Applicant’s Presentation. At its option, the applicant may make an oral or a written presentation that informs persons at the hearing of the nature, location, and scope of the proposed Facility. This presentation may not be made by County staff or consultants, and may be waived by the Chairperson if there are no members of the public at the hearing, and the applicant has previously explained the proposed Facility to the review body conducting the hearing.

11.2.2. Questions by Review Body. The review body may ask questions of the Land Use Department, or the applicant, or anyone else who is present.

11.2.3. Public Comments. Public comments may be heard. Written comments that have been received at least 5 business days prior to the date of the hearing may be reported by the Land Use Department and acknowledged to be part of the hearing record.

11.2.4. Ex Parte Communications. Members of decision-making bodies may not engage in ex parte communication about applications under review or reasonably anticipated to come under review. If an ex parte communication is attempted by telephone, in person, by telefax or other means outside of a regularly scheduled meeting, the member of the decision-making body involved may first attempt to stop the party from the prohibited behavior, then document the communication and notify the Land Use Administrator by telephone or in written form. The Land Use Administrator may then enter that documentation into the public file. The Land Use Administrator may report that documentation at the next meeting or hearing on the subject application. No ex parte communication may be considered by a decision-making body, or any of its members, in making a decision on a Solar Energy Facility permit matter.

11.2.5. Applicant Response. The applicant may respond to any comments made by the public, the Land Use Department, or the review body.
11.2.6. Land Use Department Response. The Land Use Department may respond to any statement made by the applicant, the public, or the review body.

11.3. Time Limits for Testimony. The chairperson conducting the public hearing may set reasonable time limits for testimony or presentation of evidence. If any testimony or evidence is so limited, the person offering that testimony or evidence may have an opportunity to enter it into the record in writing at the public hearing.

11.4. Continuance of Public Hearing. At the conclusion of the hearing, the body conducting it may continue the public hearing to a fixed date and time. An applicant may have the right to request, and be granted on a showing of good cause, one continuance of each required hearing. All subsequent continuances may be granted at the discretion of the body conducting the public hearing and upon a finding that good cause has been shown for the continuance.

11.5. Closure of Public Hearing and Acceptance of Written Testimony after Closure. If the hearing is not continued, it may be closed. At the close of the hearing, the chairperson of the body conducting the hearing may leave the record open for a defined period of time during which only written comment will continue to be accepted. If no such time period is defined, no further written comment may be accepted after the hearing is closed, except that any public comments received in writing prior to the hearing, but after the report prepared by the Land Use Department pursuant to Section 11.2.3. may be included in the record.

11.5.1. No Ex Parte Comments Accepted. The chairperson may announce that there may be no ex parte comments accepted by members of the decision-making body.

11.5.2. All Written Comments Received become Part of Record. All written comments, along with supporting data and references, received within the specified comment period may be made a part of the record and may be available for public inspection at the Planning Department when the hearing was conducted by the Planning Commission. When the hearing was conducted by the Board, copies of all such comments may be available at the Administration Office. All timely written submittals may be made a part of the record of the proceeding.

11.5.3. Record of Public Hearing. The body conducting the public hearing may record the public hearing by any appropriate means, including audiotape or videotape, and written minutes. The written and taped record of oral proceedings, including testimony and statements of personal opinions, the minutes of the hearing and other meetings of the review body, all applications, exhibits, and papers submitted in any proceeding before the decision-making, administrative, or review body, the Land Use Department's report, and the decisions of the review and decision-making bodies, may constitute the record. Those materials, on presentation to the County, may become the public property of the County and may not be removed from County possession without proper written authorization from the custodian of the record.

11.5.4. Materials Are Part Of Public Record. Said materials may be public information, available to the public at the Land Use Administration office during regular business hours. The Department, as official custodian of those records, may make such rules with reference to the inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the Land Use Department.
Finding: The majority of Saguache County is comprised of high altitude desert. Two major aquifers, which supply water to San Luis Valley residents, towns, and agricultural operations, lie partially within the County’s boundaries. Much of the County serves as a significant recharge area for these aquifers, which lie atop one another and are referred to as the mayow, or unconfined aquifer and the deep, or confined aquifer.

Rio Grande Basin water is over-allocated, with shortfalls projected by 2030. The Rio Grande Decision Support System study on the confined aquifer documents this fragile water system and allows the State Water Engineer to promulgate rules regarding the aquifer based on the information provided by the study. As part of the Rio Grande Water Conservation District, Saguache County keeps itself appraised of water drawn from the mayow or unconfined aquifer for the federally mandated Closed Basin Project. The Closed Basin Project helps supply Colorado’s water commitment to New Mexico and Texas under the federal agreement known as the Rio Grande Compact. These vital aquifers are part of a vast water system that is not fully understood, but upon which all life in the region depends. They are an irreplaceable resource that the County will continue to collaborate to protect.