## SECTION 317 – ALTERNATIVE ENERGY SYSTEMS

A. *Purpose*. These provisions are intended to establish minimum standards for solar and wind energy facilities in order to minimize impact to neighboring properties, ensure compatibility with existing land uses, and promote the responsible development of renewable energy resources while also protecting the health, safety, and general welfare of the public.

B. *Definitions*. In addition to the definitions in PCZO § 103, the following are applicable to this section:

1. *Airfield Elevations/Length*. Ellsworth Air Force Base (AFB) has a Class B Runway with established airfield elevation of approximately 3,280 feet above Mean Sea Level (MSL). Ellsworth AFB runway length is 13,497 feet. Rapid City Regional Airport runway is 3,204 feet above MSL with max length of 8,701 feet.

2. *Airspace Imaginary Surfaces*. A structure of imaginary control surfaces that exist primarily to enhance the safety and efficiency of aircraft operations by preventing existing or proposed manmade objects, objects of natural growth or terrain from extending upward into navigable airspace. These imaginary surfaces either slope out and up from all sides and ends of runways or are a horizontal plane or a sloping plain above airport. (Imaginary surfaces are shown on Exhibits at the end of this Ordinance.)

3. *Airstrip*. A strip of ground set aside for the takeoff and landing of aircraft.

4. *Angle of Incidence*. The angle that a ray of sun makes with a line perpendicular to the surface. For example, a surface that directly faces the sun has a solar angle of incidence of zero, but if the surface is parallel to the sun (for example, sunrise striking a horizontal rooftop), the angle of incidence is 90°.

5. *Class Delta Airspace*. Class D airspace can generally be described as a controlled airspace that extends from the surface or a given altitude to a specific higher altitude. Ellsworth Air Force Base and Rapid City Class D Airspaces overlap. Ellsworth Air Force Base and Rapid City Air Traffic Control facilities mutually agree that the ridge of hills southeast of Ellsworth Air Force Base constitute the geographical boundary between the Class D Airspaces (Imaginary surfaces are shown on Exhibits at the end of this Ordinance). Ellsworth Air Force Base's Class D Airspace extends from the surface up to and including 5,800 feet Mean Sea Level (MSL) and a 5.9 nautical mile (6.8 mile) radius of the airport center. Rapid City's Class D airspace extends from the surface up to and including 5,700 feet mean sea level (MSL) and a 4.4 nautical (5 mile) mile radius from the airport center.

6. *Collector Line*. A single or group of transmission lines that links one generator, or a group of generators, to the bulk power grid.

7. *dB(A)*. A frequency weighting that relates to the response of the human ear to sound.

8. *Decibel (dB)*. A unit for expressing the relative intensity of sounds on a scale from zero to greater than 130, with 85 possibly being harmful to humans.

9. *Distributed Solar Energy System* (DSES). A SES to directly power a home, farm, or small business as its primary use.

10. *Distributed Wind Energy System* (DWES). Turbines to directly power a home, farm, or small business as its primary use.

11. *Easement*. A right whether or not stated in the form of a restriction, option to obtain an easement, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land.

12. *Facility*. A place, especially including buildings, where a particular activity happens.

13. *Federal Aviation Administration (FAA)*. The Federal Aviation Administration is the national aviation authority of the United States, with powers to regulate all aspects of American Civil Aviation.

14. *Fence*. A manmade, unroofed structure, barrier, railing, or other upright structure, typically of wood or wire, enclosing an area of ground to mark a boundary, control access, or prevent escape.

15. *Glare*. A continuous source of brightness, relative to diffused lighting. Not a direct reflection of the sun, but a reflection of the bright sky around the sun. Glare is significantly less intense than glint.

16. *Glint*. Also known as a specular reflection, produced as a direct reflection of the sun in the surface of the PV solar panel. Also, a momentary flash of light.

17. *Glint and Glare Assessment*. An assessment to determine the impact of solar reflections upon surrounding roads, dwellings and aircraft locations.

18. *Grid*. An interconnected network for delivering electricity from suppliers to consumers.

19. *Interconnection Agreement*. To set forth the terms and conditions to allow entities to install an independent power generation system and connect to a utility.

20. *Inverter*. A device that converts direct current electricity to alternating current either for stand-alone systems or to supply power to an electricity grid.

21. *Megawatt (MW)*. 1,000 kilowatts, or 1 million watts; standard measure of electric power plant generating capacity.

22. *Meteorological Tower*. A tower which is erected primarily to measure wind speed and direction, plus other data relevant to siting of a WES. Other meteorological towers, such as those used by airports, municipalities, weather services or research facilities, are not affected by this definition or this section of the Ordinance.

23. *National Electrical Code* (NEC). National Electrical Code sets standards and best practices for wiring and electrical system, which contains guidelines for all types of electrical installations. The current version of the NEC shall be followed.

24. *Obstruction Evaluation / Airport Space Analysis (OE/AAA)*. An Obstruction Evaluation is required for all systems 200 feet or above in total height from ground level. An object typically is considered an obstruction when it exceeds (penetrates) Airspace Imaginary Surfaces and/or Class D Airspace, whichever is lowest, but the FAA may have additional restrictions in any airspace. The OE/AAA is a process for aeronautical studies of obstructions to air navigation or navigational facilities to determine the effect on the safe and efficient use of navigable airspace, air navigation facilities or equipment; and the process to petition the Federal Aviation Administration (FAA) for discretionary review of determinations, revisions, and extensions of determinations. View Title 14 Chapter 1 Subchapter E Part 77 Subpart 9 (14 CFR Part 77.9) for the most current information.

25. *Solar Energy*. Electromagnetic energy transmitted from the sun (solar radiation).

26. *Solar Energy System (SES)*. A device or structural design feature intended to provide for collection, storage, and distribution of solar energy.

27. *Solar Skyspace Easement*. Air space for the purpose of ensuring adequate exposure of a photovoltaic solar power system to the sun, or an agreement to refrain from developing a photovoltaic solar power system.

28. *Substations*. Any electrical facility designed to convert electricity to a voltage for interconnection with transmission lines.

29. *System*. A set of connected things or devices that operate together.

30. *Turbine*. All the parts of the WES, including the blades, generator, and tail.

31. *Utility*. Any person or entity engaged in the generation, transmission or distribution of electric energy in this state including, but not limited to: a private investor owned utility, a cooperatively owned utility, a consumer's power district and a public or municipal utility. The term utility shall not include a person or entity that generates electric energy solely for on-site consumption and not for sale, resale, or delivery to the public, including behind-the-meter facilities.

32. *Utility-Scale Solar Energy System (USES)*. Any SES with the primary purpose of delivering electricity to the power grid and distributed to the end user by electric utilities or power system operators. USES can also be referred to as Solar Farm.

33. *Utility-Scale Wind Energy System (UWES)*. Turbines delivering electricity to the power grid and distributed to the end user by electric utilities or power system operators. Utility-Scale Wind Energy Systems can also be referred to as Wind Farms.

34. *Watt*. The rate of energy transfer equivalent to one ampere under an electrical pressure of one volt.

35. *Wind Energy System (WES)*. A system that converts wind movement into electricity. All of the following are encompassed in this definition of system:
    a. Tower or multiple towers, including foundations;
    b. Generator(s);
    c. Blades;
    d. Power collection systems, including pad-mount transformers;
    e. Access roads, meteorological towers, on-site electric substations, control building, and other ancillary equipment and facilities; and,
    f. Electric interconnection systems or portion thereof dedicated to the WES.

36. *Wind Generator*. A mechanical device designed and operated so as to generate electricity.

37. *Wind System Height*. The height of the total system measured from grade to the center of the hub height.

C. *General Requirements*. All alternative energy systems in Pennington County are subject to these regulations in addition to all other applicable local, state, and federal regulations.

1. *Building Code*. All systems must meet or exceed standards and regulations of the U.S. Department of Energy, the International Energy Conservation Code (IECC), International Code Council (ICC), South Dakota State Statutes, and any other agency of federal, or local government with the authority to regulate energy systems.

2. *Noise*. All proposed utility-scale systems must submit a noise mitigation plan containing:

    a. Name and qualifications of the person who measured the decibel levels.
    b. Equipment used.
    c. Location of the noise measurements depicted on a scaled site plan.
    d. Sound is measured at the property line of any receiving property.

e. A list of all sound sources that contribute to the overall sound emissions from the site and the following for each source:

i. Peak sound levels, in decibels, emitted by each source; and,
ii. Sound levels, in decibels, for sound continuously emitted by each source for a duration exceeding thirty (30) minutes;
iii. The frequencies of the sound emissions from each source; and,
iv. A site diagram showing the location of each sound source.

f. A description of any and all methods, systems, devices or structures intended to be used to mitigate sound emissions, including technical specifications, descriptions of materials and/or engineering specifications.

g. A certification, signed by the preparer of the document, certifying the accuracy of the materials contained within the noise mitigation plan and that the plan will effectively reduce sound emissions to levels required by this Section.

h. Pennington County reserves the right to require independent verification of noise measurements and/or to request additional measurements at different points on the property.

i. The maximum sound level measured at the property line of any receiving property containing an existing habitable dwelling is (55) dBA after any applicable adjustments provided for herein are applied. *This level is in addition to the measured ambient sound level.*

3. *Appearance, Color or Finish*. All systems must be non-reflective and of unobtrusive color.

4. *Lighting*. No system may be artificially lighted unless such lighting is required by the FAA, is located at entry gates, or is required for maintenance work during hours of darkness.

a. All lighting must be installed and maintained so as to minimize spillage of light to not create a nuisance and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle.

5. *Floodplain*. Alternative energy systems are considered development and must meet the Pennington County Flood Damage Prevention Ordinance.

6. *Interference*. Any signal interference complaints associated with utility-scale alternative energy systems or related equipment must be addressed in accordance with FCC or FAA rules and procedures.

7. *Distributed Systems.*

a. *Zoning*. Distributed systems are permitted in all zoning districts in accordance with this Section.

b. *Lot size*. Distributed systems must meet the minimum lot size requirements for the zoning district in which it is located.

c. *Building Permit.* Construction of distributed alternative energy systems, accessory structures, and any minor or major modifications require an approved Building Permit prior to placement or replacement, as required in this Section and PCZO § 506.

d. *Setbacks*. The following setbacks are required (distance is measured from the edge of the solar panel or from the base of the wind structure):

(1) Distributed Solar Energy System (DSES)

i. DSES and associated accessory structures must meet the structure minimum set back requirements for the zoning district in which it is located.

ii. No DSES is allowed to be placed in the front yard of any residentially zoned property.

iii. Roof mounted DSES must not extend beyond the exterior perimeter of the building on which the system is mounted.

(2) Distributed Wind Energy System (DWES)

i. DWES must be meet a minimum of 1.1 times the height of the DWES structure to all property lines, overhead electrical lines, public right-of-way and other DWES.

ii. No DWES is allowed to be placed in the front yard of any residentially zoned property.

e. *Height*. The following are height requirements for (In no way these requirements can infer exceptions to height requirements within any FAA, Ellsworth AFB, and/or Rapid City Regional Airport controlled airfield flight patterns - Imaginary surfaces are shown on Exhibits at the end of this Section):

(1) Distributed Solar Energy System (DSES)

i. *Pitched-roof mounted systems*. For all roof-mounted systems, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

(a) The panels must be mounted no more than twelve (12) inches from the surface of the roof (mounting hardware) they are on, at any point, and will not be extend beyond the roof ridge line and must meet Pennington County height restrictions for the zoning district.

ii. *Flat-roof mounted systems*. a drawing shall be submitted showing the distance to the roof edge and any parapets on the building.

(a) The horizontal portion of mansard roofs, the panels may extend up to five (5) feet above the highest point of the roof, and shall meet Pennington County height restrictions for the zoning district.

iii. *Ground-mounted systems*. Ground mounted DSES must not exceed 12 feet in height above ground when at full tilt.

(2) Distributed Wind Energy System (DWES)

i. The maximum height (any fraction of an acre will be rounded down to the closest whole number) is based on lot size as follows (total turbine height, excluding blades):

(a) 5 acres and below – 50 feet height
(b) 5 to 19 acres – 80 feet height
(c) 20 + acres – 100 feet height

ii. The blade tip of any rotor shall, at its lowest point, have ground clearance of no less than 15 feet, as measured at the lowest point of the arc of the blades.

8. *Utility-Scale Systems*.

a. *Conditional Use Permit (CUP)*. Utility-scale systems are permitted as a Conditional Use in agriculture, industrial and commercial districts in accordance with this Section and PCZO § 510.

b. *Lot size*. Utility-scale systems must be located on a lot of not less than 40 acres.

c. *Utility Notification*. Prior to application with the County, a utility-scale system project must provide documentation showing that the local utility company has been informed of the developer's intent to install an interconnected system.

d. *Permits and Approvals*. In addition to a CUP, the utility-scale systems' owner or operator must obtain all necessary permits and approvals from the South Dakota Public Utilities Commission (PUC), Federal Energy Regulatory Commission (FERC), and/or any other applicable regulatory agencies prior to issuance of a Building Permit.

e. *Obstruction Evaluation*. A Federal Aviation Administration (FAA) 7460-1, Notice of Proposed Construction or Alteration, must be submitted to the FAA. Determination must be made prior to Building Permit submittal.

f. *Connection*. The location of a utilities' transmission line must be within 5 miles of the location of a systems project boundary.

(1) A system's project boundary is defined as the area that encapsulates alternative energy structures. There could be several noncontiguous project boundaries within one utility-scale system.

(2) Where feasible, feeder lines must be placed underground. Above ground connections may be approved depending on soil conditions, shape and topography of the site, distance to the connection, or other limiting conditions or requirements.

g. *Building Permit.* Construction of utility-scale alternative energy systems, accessory structures, and any modifications require an approved Commercial Building Permit prior to placement or replacement, as required in this Section and PCZO § 506.

h. *Signage*. No utility-scale system structures shall be used to display permanent or temporary advertising, including signage, streamers, pennants, spinners, reflectors, banners, or similar materials.

(1) *Exception*. The manufacturer and equipment information, warning, or indication of ownership shall be allowed on any equipment of the USES, provided they comply with PCZO § 312.

i. *Glint and Glare Assessment*. For USES, a glint and glare assessment must be conducted.

j. *Shadow-Flicker Analysis.* For UWES, a shadow-flicker analysis must be performed and include:

(1) The duration and location of flicker potential for all receptors and road ways within a one-mile radius of each turbine within a project.
(2) A site map identifying the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year.
(3) Flicker at any receptor shall not exceed 30 hours per year within the analysis area.

k. *Setbacks*. The following setbacks are required (distance is measured from the base of the structure for wind structures and the edge of the panel for solar structures):

(1) Accessory structures must meet the structure minimum set back requirements for the zoning district in which it is located.

(2) A buffer of at least 25 feet must be maintained within the required setback.

i. The buffer must consist of a fire break and act as a barrier to slow or stop fire movement.

(3) All utility-scale alternative energy systems must be setback 1.5 miles from an incorporated municipal boundary, airport or air base. If the municipality, airport or air base has designated future land uses in the County via a comprehensive plan or other land use plan, the proposed system must not create a conflict with this plan.

(4) Utility-Scale Solar Energy System (USES)

i. USES panel structures must be setback 50 feet from all property lines.

ii. USES panel structures must be located at least 300 feet from an existing habitable dwelling.

iii. USES inverter and substation structure(s) must be setback 500 feet from a habitable dwelling(s).

iv. *Fencing*. A seven (7) foot security fence is required along the entire perimeter of USES system.

(5) Utility-Scale Wind Energy System (UWES) – distance must be measured from the exterior edge of the turbine base.

i. UWES must be located at least 2 times the total height of the structure, including rotor diameter to all property lines and all habitable dwellings.

ii. UWES must meet a minimum of 1.1 times the total height of the structure, including rotor diameter, to overhead electrical lines, public right-of-way, riparian corridors, identified wetlands, national or state parks, and other wind turbines.

l. *Height*. The following are height requirements for (In no way these requirements can infer exceptions to height requirements within any FAA, Ellsworth AFB, and/or Rapid City Regional Airport controlled airfield flight patterns - Imaginary surfaces are shown on Exhibits at the end of this Section):

(1) Utility-Scale Solar Energy System (USES). Ground mounted USES must not exceed 25 feet in height above ground when at full tilt.

(2) Utility-Scale Wind Energy System (UWES). The turbine hub height must not exceed 330 feet.

m. *Lot Coverage*. The maximum allowable lot coverage is 60 percent. The maximum allowable lot coverage is computed by calculating the total area covered by structures and impervious (paved) surfaces, including accessory structures.

(1) Development on lots which cause an increase in (exceeds) impervious area greater than 15%, shall be required to provide storm water treatment of the runoff generated by the first 0.5" of rainfall.
(2) Prior to any land disturbance, a Stormwater Permit may be required in accordance with PCZO § 507.

n. *Access Roads*. All roads and approaches must be built to Ordinance 14 standards.

(1) Haul Road Agreements may be required by the impacted road authority at their discretion.

o. *Parking*. Parking requirements must be in accordance with PCZO § 310.

p. *Emergency Response Plan*. The utility-scale owner or operator must submit an Emergency Response Plan to the Planning Department prior to any ground disturbance at the system's site detailing the planned response actions that will be taken by the operator, including any battery energy storage systems, in the event of an emergency situation. The Planning Department, Emergency Services and the Fire Administrator will review

the plan and provide any necessary comments and/or updates needed. The ERP must be reviewed and approved by the review entities prior to submission of a Building Permit.

q. *Decommissioning, Abandonment, and Site Restoration Plan*. The utility-scale owner or operator must submit a decommissioning plan at the time of application that describes the following:

(1) The anticipated life of the utility-scale system.

(2) The anticipated manner in which the facility will be decommissioned, including plans to recycle components and dispose of any hazardous materials.

i. For UWES, manner in which turbines are dissembled must be in the same manner as installed.

(3) The anticipated site restoration activities. Restoration activities shall include, but not be limited to, the following:

i. Removal of all equipment, power lines, and footings to a minimum depth of fifteen (15) feet.

ii. Soil in project area shall be de-compacted and seeded.

(a) The site must be returned to the background native vegetation utilizing a minimum of six inches of topsoil.

iii. For any part of the system on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates or repurposed buildings in place or regarding restoration of agricultural crops or forest resource land. Any use of remaining structures must be in conformance with the regulations in effect at that time.

(4) The estimated decommissioning costs in current dollars. Cost considerations must include the following:

i. The applicant shall provide the basis for estimates of net costs for decommissioning the site, to include any associated material transportation costs.

ii. Removal of any hazardous materials at the facility.

iii. Salvage value shall not be included in the cost estimate.

iv. The cost basis shall include a mechanism for calculating adjusted costs over the life of the project.

v. The method for ensuring that funds will be available for decommissioning and restoration of the site.

vi. Anticipated timeline to complete decommissioning activities and site restoration.

vii. Where possible, recycling is encouraged in lieu of disposal.

r. *Performance Agreement and Proof of Financial Surety*. At the time of permitting, the utility-scale energy system owner or operator must provide a Performance Agreement and accompanying financial surety instrument to cover the cost of decommissioning in accordance with the following:

(1) Decommissioning funds shall be an amount equal to the total costs for decommissioning the site, plus a twenty percent (20%) contingency.

(2) Decommissioning funds shall be maintained in the form of a performance bond, surety bond, bank letter of credit, stable parent company guarantee, or other form of financial assurance as approved by the Board of Commissioners.

(3) Any financial document evidencing the maintenance of the decommissioning funds shall include provisions for releasing the funds to the County in the event decommissioning is not completed within the anticipated timeline or to the extent approved by the County provided in § 317(C)(8)(q).

(4) The total estimated decommissioning funds shall be provided, by any of the means listed above, prior to any ground disturbance, grading or construction activity on the site.

(5) Financial surety must be maintained for the life of the system.

(6) Proof of recertification of the financial surety instrument must be submitted to the County every five (5) years.

i. The utility-scale energy system owner or operator must retain an independent Licensed South Dakota Engineer to re-estimate the total cost of decommissioning and attest that the value of the financial surety instrument is appropriate.

ii. The re-estimated decommissioning costs must be filed with the County and incorporate any new industry information learned since the last cost determination.

iii. The required amount of the decommissioning fund must match the re-estimated cost of decommissioning, plus a twenty percent (20%) contingency.

iv. Within ninety (90) days of filing the re-estimation report with the County, the facility owner or operator must cause the fund balance of the financial surety instrument to be adjusted to ensure that it matches the re-estimated decommissioning cost.

(7) Failure to abide by the provisions of 317(C)(8)(r) may constitute grounds for revocation as set forth in 317(H).

s. *Commencement of Site Decommissioning*. Decommissioning of the site shall commence at the time identified in the project decommissioning plan or performance agreement, or when the facility is determined to have been abandoned.

(1) Decommissioning shall be completed in accordance with the approved decommissioning plan.

(2) The utility-scale energy system owner or operator must notify the County within 90 days both when the project is discontinued and when decommissioning is complete.

(3) Third-party verification, as well as County verification of completed decommissioning will be required before the financial surety may be released.

(4) The utility-scale energy system will be considered abandoned in the following circumstances:

i. Upon termination or expiration of the utility scale system leases/easements.

ii. After one year without production, storage of energy, or use as a backup facility.

iii. Exceptions may be made for:

(a) A natural event that has occurred or is occurring, which will prevent the facility from resuming operation within 12 months.
(b) If the facility is in the process of being repowered.
(c) A situation in which the utility-scale energy system owner or operator can provide evidence to the Board of Commissioners, that the system's period of continuous inactivity is due to circumstances beyond

owner or operator's control and that the facility has not been abandoned.

D. *Submittal Requirements for Utility-Scale Systems*. The following are required for submission to the Planning Department:

1. An application on a form provided by the Planning Department.

2. A fee in accordance with PCZO § 511.

3. A narrative describing the proposed system including an overview of the system.

4. A site plan showing the proposed location and dimensions of all equipment, existing and proposed structures, screening, fencing, property lines, access roads, turnout locations, ancillary equipment, and the location of any habitable residence, church, school, or government building within one half mile (2,640 feet) of the site boundary.

5. Any plans, assessments, approvals, or reports that are required in PCZO § 317(C).

6. Lease agreements if the property owner and energy system owner/operator of the system are not the same.

7. Interconnection Agreement, if available or proof of notification to the utility.

8. Any other relevant studies, reports, certifications, and approvals as may be reasonably requested by Pennington County to ensure compliance with this Section.

9. Signature of the property owner(s) and the owner or operator of the system (if different than the property owner).

E. *Notice for Utility-Scale Systems*.

1. *Sign*. Upon submittal of a complete application and payment of application fee, the Planning Department shall provide the applicant a sign to inform the public of the Conditional Use Permit application. The applicant shall post the sign on the property at least 30 days prior to public hearing on the application before the Planning Commission.

2. *Property Owners*. The applicant must also notify all property owners (including recorded Contract for Deed buyers) of land located within 1.0 mile, inclusive of any right-of-way, of the outer boundaries of the subject property of the pending CUP application. Based upon Department of Equalization records, the Planning Department will determine and provide a list of property owners within 1.0 mile. Notice must be by registered or certified mail at least 30 days prior to the public

hearing on the application. The applicant must use "Notice of Hearing" letters provided by the Planning Department.

3. *Additional Notice*. The applicant must notify the United States Ellsworth Air Force Base, Rapid City Regional Airport and any other affected airstrip/airports within 5 miles of the project boundary and any applicable Conservation Districts by registered or certified mail at least 30 days prior to the public hearing. The applicant must use "Notice of Hearing" letters provided by the Planning Department.

F. *Public Hearings for Utility-Scale Systems.*

1. *Planning Commission*. Notice of time and place of hearing shall be given at least 30 days in advance by publication in the legal newspapers of the County. The decision of the Planning Commission shall be a recommendation to the Board of Commissioners (hereinafter "Board"). The Planning Commission may recommend approval, approval with conditions or denial of the application.

2. *Board of Commissioners.* After receiving the recommendation of the Planning Commission, the Board shall hold a public hearing on the application. Notice of time and place of hearing shall be given at least 30 days in advance by publication in the legal newspapers of the County. The Board may approve, approve with conditions or deny the application.

G. *Review of Utility-Scale Systems*.

1. *Power-to-Review*. The Board has the authority to review a Conditional Use Permit for a Utility-Scale Alternative Energy System to ensure compliance with the PCZO, any conditions imposed, and state law.

2. *Procedure*. A Conditional Use Permit for a Utility-Scale Alternative Energy System are subject to review by the Board for compliance with conditions of approval. A review may occur as a condition of approval, at the request of the Board, or upon an evidence-based, substantiated complaint. At the conclusion of the review, the Board may (1) approve the Conditional Use under the conditions already imposed; (2) approve the Conditional Use with additional conditions, subject to another review; (3) schedule another review; or (4) schedule a revocation hearing in accordance with subsection (H) of this Ordinance.

3. Upon change in ownership.

H. *Revocation*. Any Conditional Use approved under the provisions of this Section must be established and conducted in conformity with the conditions of approval of the Permit. Failure to comply with conditions of approval is cause for revocation of the Permit.

1. The Planning Director may schedule a revocation hearing before the Board if:

a. the owner or applicant has failed repeatedly to comply with the conditions of the approved Permit; or,
b. the continued Conditional Use is a threat to public health, safety, or general welfare.
c. Findings of Fact entered into the record.

2. Notice of time and place of hearing shall be given, in writing, to the permit holder at least 30 days in advance of hearing. Surrounding property owners must also be given written notice of the hearing as provided under PCZO § 317(G)(2) In addition, notice of time and place of the hearing shall be published.

I. *Appeals*. The Board is the approving authority for utility-scale alternative energy systems. The Board's decision on a Conditional Use Permit application is subject to review pursuant to SDCL 11-2-61.1 and amendments thereto.

J. *Failure to Commence*. Failure of an owner or operator to take substantial steps to commence construction within two years of issuance of the Conditional Use Permit, shall terminate the Permit.

1. *Substantial step* is defined as action which demonstrates reasonable effort to commence operation, including, but not limited to, surveying, site plan development, and obtaining utility approvals.

| | Distributed SES | Utility SES | Distributed WES | Utility WES |
|---|---|---|---|---|
| **Setbacks** | | | | |
| Property Line | Zoning District Setback | 50 feet | 1.1 times height | 2 times height |
| Overhead Electrical Line | n/a | n/a | 1.1 times height | 1.1 times height |
| Public ROW | 25 feet | 50 feet | 1.1 times height | 1.1 times height |
| Other Systems | n/a | n/a | 1.1 times height | 1.1 times height |
| Buffer | n/a | 25 feet | n/a | n/a |
| Incorporated Municipality | n/a | 1.5 miles[1] | n/a | 1.5 miles[1] |
| Airports, Air base | n/a | 1.5 miles[1] | n/a | 1.5 miles[1] |
| Existing Habitable Dwelling | n/a | 300 feet | n/a | 2 times height |
| Riparian Corridor | n/a | n/a | n/a | 1.1 times height |
| Wetlands | n/a | n/a | n/a | 1.1 times height |
| Parks | n/a | n/a | n/a | 1.1 times height |
| **Lot Coverage** | n/a | 60% | n/a | 60% |
| **Height** | Ground mounted- 12 feet<br>Roof mounted- roof + SES = 35 feet | 25 feet at full tilt | Ground clearance of 15 feet | 330 feet at hub |
| *5 acres and below* | n/a | n/a | *50 feet* | n/a |
| *5 to 19 acres* | n/a | n/a | *80 feet* | n/a |
| *20+ acres* | n/a | n/a | *100 feet* | n/a |
| **Zoning** | ALL | AG, C, I | ALL | AG, C, I |

[1] - If the municipality, airport or air base has designated future land uses in the County via a comprehensive plan or other land use plan, the proposed system must not create a conflict with this plan.