



Document 20211461

Book 2021 Page 1461 Type 06 033 Pages 9
Date 10/20/2021 Time 8:53:25AM
Rec Amt \$.00

JENNIFER L MCALLISTER, RECORDER
FREMONT COUNTY IOWA

FREMONT COUNTY ORDINANCES 2021-1 – SOLAR ENERGY SYSTEMS

1. Statement of Intent.

The purpose of this Ordinance is to facilitate the construction, installation, and operation of Solar Energy Systems (SES) in Fremont County in a manner that promotes economic development, protects property values, and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, conservation lands, and other sensitive lands.

This Ordinance does not repeal, abrogate, annul, impair, or interfere with any existing ordinance.

2. Personal Solar Energy System (PSES).

a. Purpose and Intent.

The purpose of these regulations is to provide a uniform and comprehensive set of standards for the installation and use of PSESs designed for on-site home, farm, and small commercial use that are used primarily to reduce on-site consumption of utility power. The intent of these regulations is to protect the public health, safety, and community welfare without unduly restricting the development of PSESs.

b. Permitted Use.

Personal Solar Energy Systems shall be considered an accessory use to a principal permitted use.

c. Special Requirements.

Personal Solar Energy Systems shall be subject to the requirements stated herein:

- 1) Ground Mounted PSES height. Shall not be greater than fifteen (15) feet at maximum tilt of the solar panel(s).
- 2) Structure Mounted PSES height. Shall not be greater than the allowable height of any structure within the zoning district in which the PSES is to be installed.
- 3) Setbacks. The ground mounted PSES shall maintain perimeter setbacks including: side and rear yard setbacks of ten (10) feet measured at full horizontal tilt and shall be ten (10) feet from any other building or structure on the same lot. No PSES shall be permitted to be located in the required front yard setback unless at least seventy-five (75) feet back from the edge of the county road right of way or at least eighty (80) feet back from the edge of state or federal road right of way.
- 4) Building Codes. All county, state, and national construction codes shall be followed.
- 5) Use. The PSES shall provide electricity for on-site use by the owner. This does not

prohibit an owner from making excess power available for net metering.

- 6) Approved Solar Components. Electric solar energy system components must have an Underwriters Laboratory (UL) listing or approved equivalent.

d. Building Permit.

Before a building permit is issued, the following shall be submitted to the Fremont County Engineer's Office for review:

- 1) A site plan showing:
 - a) Name, address, email address, and phone number of the property owner;
 - b) Parcel lines;
 - c) All existing structures, with heights clearly marked;
 - d) Sanitary infrastructure (i.e. Septic field);
 - e) Setback measurements;
 - f) Easements present on the property, including those for utilities;
 - g) Septic field tile location;
 - h) Floodplain location, if applicable;
 - i) Topography lines (2-foot contours),
 - j) Location of all solar panels and associated equipment; and,
 - k) Location of the electrical disconnect for the PSES.
- 2) Evidence that the local electric utility has been informed of the customer's intent to install a customer- owned solar energy system.
- 3) Evidence that the site plan has been submitted to the local fire protection district.
- 4) After a review and acceptance of site plan and required information, a letter authorizing construction shall be issued.

e. Permit Fee for Personal Solar Energy System

For all permits for PSESs, up to 10 kilowatts (kW-dc), shall incur a one hundred dollar (\$100.00) permit fee payable to the Fremont County Engineer at submission of the permit request. All PSESs above 10 kilowatts (kW-dc) shall comply with the permit fee schedule set out in this Ordinance for Solar Garden Energy Systems and Solar Farm Energy Systems.

3. Solar Garden Energy System (SGES) and Solar Farm Energy System (SFES).

a. Purpose and Intent.

The purpose of these regulations is to provide a uniform and comprehensive set of standards for the installation and use of SGES and SFES designed for commercial energy production. The intent of these regulations is to protect the public health, safety, and community welfare while allowing development of solar energy resources for commercial purposes. Concentrating solar power (CSP) systems shall be prohibited.

b. Conditional Use Permit (CUP).

Solar Garden Energy Systems and Solar Farm Energy Systems shall require a Conditional Use Exception within the "AG" Agricultural District, the "CH" Commercial Highway Oriented District, and the "I" Industrial Districts and shall be subject to the procedures and standards included in the Fremont County Zoning Ordinance unless otherwise stated in this Solar Energy Systems Section 12.

c. Special Requirements.

SGES and SFES are subject to the following requirements:

- 1) Height. Shall not exceed fifteen (15) feet at maximum tilt of the solar panel(s) unless

otherwise approved by the Fremont County Engineer and Fremont County Board of Supervisors following a public hearing on the matter.

- 2) Setbacks.
 - a) The front yard setbacks shall be a minimum of fifty (50) feet from the edge of the right of way which from the outside perimeter of a SGES or SFES project area and one hundred (100) feet from a residence that is a part of the SGES or SFES project area. The Fremont County Engineer may grant an exception and/or variance to the setback requirement if the proposed or existing buffer is sufficient to screen the project from view of adjoining property or public rights-of-way, if the owners of the adjoining properties agree in writing to waive these setback requirements.
 - b) In the case of a SGES or SFES to be built on more than one parcel and parcels are abutting, a zero (0) side or rear setback shall be permitted to the property line in common with the abutting parcel(s).
 - c) Solar panels shall be least three hundred (300) feet from a residence that is not part of the SGES or SFES project area.
 - d) Solar panels shall be eighty (80) feet from the state right of way and sixty (60) feet from county right of way(s).
- 3) Screening. A landscape buffer may be required to be installed and maintained during the life of the operation. Determination of screening requirements will be made by the Fremont County Engineer as part of the review and approval process and will be based on adjacent or nearby surrounding land uses and topography.
- 4) Fencing. A security fence of at least six (6) feet in height but no greater than eight (8) feet shall enclose the SGES or SFES.
- 5) Lighting. If lighting is provided for the SGES or SFES, lighting shall be shielded and downcast such that the light does not project directly onto the adjacent parcels.
- 6) Noise. Noise levels caused by the SGES or SFES measured at the property line the residence(s) and shall not exceed fifty (50) decibels when located adjacent to an existing residence or residential district.
- 7) Installation and Design. The SGES or SFES shall be designed and located in such a fashion to prevent best minimize glare towards any inhabited buildings on adjacent properties, as well as adjacent roadways.
- 8) Utility Connections. Reasonable efforts shall be made to place all utility connections from the solar installation underground, depending on appropriate soil conditions, shape and topography of the site, distance to the connection, or other conditions or requirements.
- 9) Outdoor storage. Only the outdoor storage of materials, vehicles, and equipment that directly support the operation and maintenance of the solar farm or solar garden shall be allowed.
- 10) Endangered Species and Wetlands. Applicant shall seek natural resource consultation with the Iowa Department of Natural Resources.
- 11) Weed control. Applicant must present an acceptable weed/grass control plan for property inside and outside fenced area for the entire property. The operating company during the operation of the Solar Farm must maintain the fence and adhere to the weed control plan.
- 12) Waste. All solid wastes, whether generated from supplies, equipment parts, packaging, operation, or maintenance of the SGES or SFES shall be removed from the site and

disposed of in an appropriate manner. All hazardous waste generated by the operation shall be removed from the site immediately and disposed of in a manner consistent with all local, state, and federal requirements.

- 13) Maintenance, repair, or replacement of a facility. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to emergency response officials. Any retrofit, replacement or refurbishment of equipment shall adhere to all applicable local, state and federal requirements.
- 14) Cleaning chemicals and solvents. During operation of the proposed installation, all chemicals or solvents used to clean photovoltaic panels shall be low in volatile organic compounds and the operator shall use recyclable or biodegradable products to the extent possible. Any on-site storage of chemicals or solvents shall be referenced on the site plan.
- 15) Road Use Agreements. All routes on county roads that will be used for the construction and maintenance purposes shall be identified on the site plan. All routes for either ingress or egress shall be shown. The solar farm developer must complete and provide a preconstruction baseline survey to determine existing road conditions for assessing potential future damage due to development related traffic. The developer shall provide a road repair plan to ameliorate all damage, installation, or replacement of roads that might be required by the developer. The developer shall provide a letter of credit or surety bond in an amount and form approved by the appropriate highway authority(s) officials when warranted. The provision of this subsection shall be subject to the approval of the Fremont County Engineer.
- 16) Soil erosion and sediment control. The applicant agrees to conduct all roadwork and other site development work in compliance with a national pollutant discharge elimination system (NPDES) permit as required by the state department of natural resources and comply with requirements as detailed by local jurisdictional authorities during the plan submittal. If subject to NPDES requirements, the applicant must submit the permit for review and comment, and an erosion and sediment control plan before beginning construction. The plan must include both general "best management practices" for temporary erosion and sediment control (both during and after construction), and permanent drainage and erosion control measures to prevent both damage to local roads/adjacent areas and sediment laden run-off into waterways.
- 17) Storm Water Management. For the purposes of pollutant removal, stormwater rate and runoff management, flood reduction and associated impacts, the applicant shall provide a detailed storm water management plan with analysis of pre- and post-development stormwater runoff rates for review by local jurisdictional authorities.
- 18) Administration and Enforcement. The Fremont County Engineer and any necessary personnel may enter any property for which a Conditional Use or building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met as specified by statute, ordinance, and code. Failure to provide access shall be deemed a violation of this ordinance.

f. Certification.

SGES or SFES shall conform to applicable industry standards, including those from the Underwriters Laboratory (UL) and Federal Aviation Administration (FAA). And all

applicable county, state, and national construction and electric codes shall be followed.

g. Safety.

All SGES or SFESs shall provide the following at all locked entrances:

- 1) A visible "High Voltage" warning sign;
- 2) Name(s) and phone number(s) for the electric utility provider;
- 3) Name(s) and phone number(s) for the site operator; and
- 4) The facility's 911 address, and GPS coordinates.

h. Application.

The application for a Conditional Use Permit for a Solar Garden Energy System or Solar Farm Energy System shall include:

- 1) A written summary of the project including a general description of the project and its approximate generating capacity.
- 2) The name(s), address(s), and phone number(s) of the owner and SGES or SFES operator.
- 3) The Interconnection Agreement, unless the developer is also the owner of the electrical power line(s).
- 4) A site plan of the SGES or SFES site showing:
 - a) Boundaries of the site;
 - b) All proposed SGES or SFES structures;
 - c) Property lines;
 - d) Setback measurements;
 - e) Location of all existing structures within the project area with their uses identified and any existing structure within three hundred (300) feet of the project area with their uses identified.
 - f) Topography lines (2-foot contours); and
 - g) Floodplain location, if applicable.
- 5) All other information contained in the Fremont County Zoning Ordinance as may be required to file a petition. To protect agricultural soils, all solar gardens and solar farms will be subject to a land evaluation site assessment (LESA). The LESA information will be utilized for a Conditional Use Permit application and not for map amendment or rezoning purposes.

i. Decommissioning Plan.

Prior to applying for a building permit, the SGES or SFES project owner/operator shall submit a decommissioning plan to the Fremont County Engineers Office. The engineer shall review the plan for completeness. The plan shall include:

- 1) A description of the plan to remove the SGES or SFES equipment and restore the land to its previous use upon the end of the project's life, as stated in the Solar Energy Ordinance granting the Conditional Use Permit, or as stated in the Fremont County Zoning Ordinance.
- 2) Provisions for the removal of structures, debris, and associated equipment on the surface and to a level of not less than ten (10) four (4) feet below the surface, and the timeline/sequence in which removal is expected to occur.
- 3) Provisions for the restoration of the soil, vegetation, and disturbed earth, which shall

- be graded and reseeded and/or the property may be returned to agricultural use.
- 4) An estimate of the decommissioning costs certified by a licensed professional engineer in current dollars. The engineer providing this estimate shall submit it to the Fremont County Engineers Office for review and all costs associated with this engagement shall be borne by the applicant.
 - 5) A written financial plan approved to ensure that funds will be available for decommissioning and land restoration.
 - 6) A provision that the terms of the decommissioning plan shall be binding upon the owner or operator and any of their successors, assigns, or heirs.
 - 7) Upon review of the decommissioning plan, the Fremont County Engineer shall set an amount to be held in a bond, escrow, or other acceptable form of funds approved by the Board. The value of the surety shall not be reduced based on the salvage value of any materials or equipment. The plan shall state that Fremont County shall have access to the project and to the funds to effect or complete decommissioning one (1) year after cessation of operations.
 - 8) Upon the county's request the applicant shall provide the county with a new estimate of the cost to decommission the SGES or SFES project every five (5) years under the same conditions as set forth in this Sections above. Salvage value of structures, electrical wire and other appurtenances shall not be considered with in the cost estimate calculations. Upon receipt of this new estimate, the county may require, and the applicant, owner, and/or operator of the SGES or SFES project shall provide, a new financial plan for decommissioning acceptable to the county. Failure to provide an acceptable financial plan shall be considered a cessation of operations.
 - 9) Release of Financial Security. Financial security shall only be released when the Fremont County engineer determines, after inspection, that the conditions of the decommissioning plan have been met.

j. Building Permit.

Before a building permit is issued, the following shall be submitted to the Fremont County Engineer for review:

- 1) Site plan with all items previously required in the Application. Additional items to be included are:
 - a) All SGES or SFES structures including, but not limited to, the project solar panels, substation, interconnect substation, and location and voltage of any overhead transmission lines;
 - b) Ancillary equipment;
 - c) Transmission lines;
 - d) Wells;
 - e) Sanitary infrastructure (i.e. Septic fields);
 - f) Field tile location;
 - g) Existing easements; and,
 - h) Wetland location, if any.
- 2) Emergency Plan. The site and emergency plan shall be submitted to the local fire protection district(s) and/or department(s) whose jurisdiction is included in whole or in part within the SGES or SFES project area. Any specialized training necessary will be provided at the operator's expense.

- 3) All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this ordinance.
- 4) After a review and acceptance of site plan and required information, a letter authorizing construction shall be issued.

k. Indemnification and Liability.

The applicant, owner, and/or operator of the SGES or SFES project shall defend, indemnify, and hold harmless Fremont County and its officials from and against any and all claims, demands, losses, suites, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever, including attorney's fees, without limitation, arising out of acts or omissions of the applicant, owner, and/or operator associated with the construction and/or operations of the SGES or SFES project.

l. Cessation of Operations.

Any SGES or SFES provided for in this ordinance that has not been in operation and producing electricity for at least one hundred eighty (180) consecutive days, excluding natural catastrophic event, shall be removed. The Fremont County Engineer shall notify the owner to remove the system. Within ninety (90) days, the owner shall either submit evidence showing that the system has been operating and producing electricity or remove it. If the owner fails to or refuses to remove the solar energy system, the violation shall be referred to the Fremont County Attorney. In the case of a natural catastrophic event, a detailed restoration plan to return to operational status must be provided to the County Engineer.

m. Violations & Penalties.

Any person who fails to comply with any provision of this Ordinance shall be deemed subject to a county infraction and punishable by a civil penalty of not less than \$200.00 but not to exceed \$750.00 plus court costs for the first offense and not less than \$400.00 but not to exceed \$1,000.00 plus court costs for each subsequent offense.

Fremont County, Iowa may seek all relief prescribed by State law for county infractions. The Fremont County Auditor and the Fremont County Attorney and his or her assistants are the officers designated and authorized to enforce this ordinance by issuance of civil citations for county infractions. Each Wind Energy Device determined to be in violation shall constitute a separate infraction. Each day that a violation occurs or continues to exist shall constitute a separate offense.

n. Related Rules and Regulations.

Each Solar Energy System shall comply with all applicable local, state, and federal requirements.

o. Severability.

The provisions of this Ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

p. Conditional Use Permit Fee Structure for Solar Garden Energy Systems and Solar Farm Energy Systems.

System Size	Permit Fee
0-50 kilowatts (kW-dc)	\$300.00
51-100 kilowatts (kW-dc)	\$500.00
101-500 kilowatts (kW-dc)	\$1,000.00
501 - 1000 kilowatts (kW-dc)	\$3,000.00
1001 - 2000 kilowatts (kW-dc)	\$6,000.00
> 2000 kilowatts (kW-dc)	\$200.00 for each additional 0-100 kilowatts (Maximum of \$10,000.00)

ADOPTED AND ENACTED by the Fremont County Board of Supervisors on September 29, 2021.

ATTEST:



Fremont County Auditor



Fremont County Board of Supervisors

First Reading: September 1, 2021
 Second Reading: September 29, 2021
 Third Reading : Waived