

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 4/25/24

Weekly Agenda Date: 4/30/24 4:50

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Daniel Priestley

WORDING FOR AGENDA ITEM:

A) Public hearing to consider Zoning Ordinance Text Amendments for Utility-Scale Solar Energy Systems (US-SES) Conditional Use in the General Industrial (GI) Zoning District, including to add a new Section 5.08, amend the table of contents, and renumber the ordinance page numbers to accommodate the addition of the new section. B) Approve the second reading of the Ordinance.

ACTION REQUIRED:

Approve Ordinance

Approve Resolution

Approve Motion

Public Hearing

Other: Informational

Attachments

EXECUTIVE SUMMARY:

A recommendation from the Woodbury County Zoning Commission from March 25, 2024 to address the regulation of Utility-Scale Solar Energy Systems (US-SES) in the unincorporated areas of Woodbury County with proposed Zoning Ordinance Text Amendments for the addition of a new section to the Woodbury County Zoning Ordinance entitled "Section 5.08: Utility-Scale Solar Energy Systems (US-SES) Conditional Use." This new section includes regulations for the conditional use permitting of US-SES in the General Industrial (GI) Zoning District. Other amendments include additions to the Table of Contents and adjustments to page number locations throughout the Zoning Ordinance.

BACKGROUND:

Over five months ago, the Zoning Commission began an intricate process to address the direction given to them by the Board of Supervisors (BoS) on August 8, 2023 and again on September 25, 2023 for a new proposed utility-scale solar ordinance. After eight public meetings including two works sessions, and six public hearings of collecting comments from Woodbury County residents and other stakeholders, the Zoning Commission has approved a recommendation to the BoS to address the permitting requirements for Utility-Scale Solar Energy Systems (US-SES) in the unincorporated areas of Woodbury County at the March 25, 2024 meeting. The recommendation was approved with a 4-1 vote.

The Commission recommends for US-SES to continue to be regulated with a conditional use permit application within General Industrial (GI) Zoning District only. The recommendation includes a process that involves the Zoning Commission, Board of Adjustment, and the Board of Supervisors. The Commissioners are tasked to review the conditional use permit application, the Board of Adjustment would consider the application for possible approval, and the Board of Supervisors would consider the building permit application(s) and associated agreements. The recommendation contains additional requirements including a road use agreement, a public drainage system protection agreement, an operation and maintenance plan, decommissioning, soil erosion and sediment control, emergency response, enforcement and other requirements governing the application process including a one (1) mile public notification area.

For further context regarding the Commission's proceedings, access to meeting information including agendas, backup materials, minutes, and audio are available through the Woodbury County website at: https://www.woodburycountyiowa.gov/committees/zoning_commission/. The Commission met for either a public hearing or work session on the following dates: September 11, 2023, September 25, 2023, October 16, 2023 (Work Session), October 23, 2023, November 27, 2023, January 17, 2024 (Work Session), January 22, 2024, and March 25, 2024.

Please refer to the draft copy of the Zoning Commission minutes from March 25, 2023 for further details about the Commission's recommendation.

FINANCIAL IMPACT:

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IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes No

RECOMMENDATION:

Open and close the public hearing (Set Time - 4:50 PM)

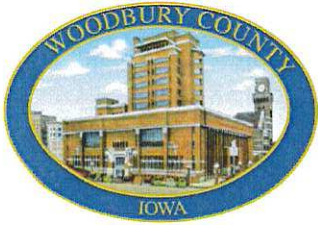
Conduct and approve the first reading of the Ordinance.

The third and final public hearing and reading of the Ordinance has been scheduled for Tuesday, May 7, 2024 at 4:45 PM.

ACTION REQUIRED / PROPOSED MOTION:

A) Public hearing to consider Zoning Ordinance Text Amendments for Utility-Scale Solar Energy Systems (US-SES) Conditional Use in the General Industrial (GI) Zoning District, including to add a new Section 5.08, amend the table of contents, and renumber the ordinance page numbers to accommodate the addition of the new section.

B) Approve the second reading of the Ordinance.



WOODBURY COUNTY
ZONING COMMISSION

WOODBURY COUNTY COURTHOUSE
620 DOUGLAS STREET
SIOUX CITY, IA 51101

Woodbury County Board of Supervisors
620 Douglas Street
Sioux City, Iowa 51101

RE: Zoning Commission Utility-Scale Solar Energy System (US-SES) Zoning Ordinance Text Amendment Recommendation

Dear Board of Supervisors:

Over five months ago, we began an intricate process to address the direction given to us by the Board of Supervisors (BoS) on August 8, 2023 and again on September 25, 2023 for a new proposed utility-scale solar ordinance. After eight public meetings including two works sessions, and six public hearings of collecting comments from Woodbury County residents and other stakeholders, we can now report that the Zoning Commission has approved a recommendation to the BoS to address the permitting requirements for Utility-Scale Solar Energy Systems (US-SES) in the unincorporated areas of Woodbury County at the March 25, 2024 meeting. The recommendation was approved with a 4-1 vote.

The Commission recommends for US-SES to continue to be regulated with a conditional use permit application within General Industrial (GI) Zoning District only. The recommendation includes a process that involves the Zoning Commission, Board of Adjustment, and the Board of Supervisors. The Commissioners are tasked to review the conditional use permit application, the Board of Adjustment would consider the application for possible approval, and the Board of Supervisors would consider the building permit application(s). Our recommendation contains additional requirements including a road use agreement, a public drainage system protection agreement, an operation and maintenance plan, decommissioning, soil erosion and sediment control, emergency response, enforcement and other requirements governing the application process including a one (1) mile public notification area.

For further context regarding our proceedings, access to our meeting information including agendas, backup materials, minutes, and audio are available through the Woodbury County website at: https://www.woodburycountyiowa.gov/committees/zoning_commission/. The Commission met for either a public hearing or work session on the following dates: September 11, 2023, September 25, 2023, October 16, 2023 (Work Session), October 23, 2023, November 27, 2023, January 17, 2024 (Work Session), January 22, 2024, and March 25, 2024.

Please refer to the draft copy of the Zoning Commission minutes from March 25, 2024 for further details about the Commission's recommendation.

Dated this 8 day of April, 2024


Christine Zellmer Zant, Chair
Woodbury County Zoning Commission

WOODBURY COUNTY, IOWA

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE TEXT OF THE WOODBURY COUNTY ZONING ORDINANCE TO AMEND PORTIONS OF: THE TABLE OF CONTENTS; TO ADD A NEW SECTION ENTITLED SECTION 5.08: UTILITY-SCALE SOLAR ENERGY SYSTEMS (US-SES) CONDITIONAL USE; AND TO INCLUDE THE RENUMBERING OF PAGE NUMBERS.

WHEREAS, WOODBURY COUNTY, IOWA DESIRES TO REGULATE ALL UTILITY-SCALE SOLAR ENERGY SYSTEMS WITHIN THE UNINCORPORATED AREAS OF WOODBURY COUNTY, IOWA; AND

WHEREAS, THE WOODBURY COUNTY BOARD OF SUPERVISORS DESIRES TO REGULATE THE CONSTRUCTION, INSTALLATION, AND OPERATION OF UTILITY-SCALE ENERGY SYSTEMS IN A MANNER THAT PROMOTES ECONOMIC DEVELOPMENT, PROTECTS PROPERTY VALUES, AND ENSURES THE PROTECTION OF THE HEALTH, SAFETY AND WELFARE OF ALL INHABITANTS OF WOODBURY COUNTY WHILE ALSO AVOIDING ADVERSE AND DETRIMENTAL IMPACTS TO RURAL RESIDENTS, THEIR ECONOMIES, UNSIGHTLINESS ON AGRICULTURAL LANDS, CONSERVATION LANDS AND OTHER SENSITIVE LANDS; AND

WHEREAS, IN ADDITION TO HOME RULE AUTHORITY, THE WOODBURY COUNTY BOARD OF SUPERVISORS IS EMPOWERED TO REGULATE THE ORDERLY DEVELOPMENT AND PROPER USE OF SOLAR ENERGY BY ESTABLISHING CERTAIN PROCEDURES FOR OBTAINING ACCESS TO SOLAR ENERGY UNDER CERTAIN PROVISIONS OF IOWA CODE CHAPTER 564A; AND

WHEREAS, THE WOODBURY COUNTY BOARD OF SUPERVISORS HAS TAKEN INTO CONSIDERATION THE THOUGHTS, BELIEFS, SUGGESTIONS AND VIEWS OF WOODBURY COUNTY CITIZENS AND RESIDENTS IN THE DEVELOPMENT OF THIS ORDINANCE.

NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF SUPERVISORS OF WOODBURY COUNTY, IOWA THAT THE BELOW ZONING ORDINANCE LANGUAGE AMENDMENTS BE MADE:

Amendment #1 –

In the Table of Contents, on page iii: To add “Section 5.08: Utility-Scale Solar Energy Systems (US-SES) Conditional Use” under the Article 5, Supplemental Requirements category 83.

In the Table of Contents, on page iii: To repeal and replace “Section 6.01: Construction of Terms 83” with “Section 6.01: Construction of Terms 97”.

In the Table of Contents, on page iii: To repeal and replace “Section 6.02: Definitions 83” with “Section 6.02: Definitions 97”.

Amendment #2 –

Following the addition of Section 5.08: Utility-Scale Solar Energy Systems (US-SES) Conditional Use, to appropriately renumber the subsequent page numbers for ARTICLE 6. DEFINITIONS, Section 6.01: Construction of Terms, and Section 6.02: Definitions.

To repeal and replace the start page of “Article 6. Definitions” from page 83 to page 97.

To repeal and replace the start page of “Section 6.01: Construction of Terms” from page 83 to page 97.

To repeal and replace the start page of “Section 6.02: Definitions” from page 83 to page 97.

Amendment #3 –

Beginning on page 83, to add the following section to be known as Section 5.08: Utility-Scale Solar Energy Systems (US-SES) Conditional Use.

Section 5.08: Utility-Scale Solar Energy Systems (US-SES) Conditional Use

1. **Statement of Intent.** The purpose of this Section is to regulate the construction, installation, and operation of Utility-Scale Solar Energy Systems (US-SES) in Woodbury 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.

If this Section conflicts with any other provision of the Woodbury County Zoning Ordinance, this Section shall control.

2. **Definitions.** For use in this Section, certain terms or words used herein shall be interpreted or defined as follows:
 - A. **Applicant.** The person or entity submitting the application under this Section, which is normally expected to be the owner or operator of a US-SES, or the owner of the US-SES development.
 - B. **Conditional Use Permit (CUP).** A use that is allowed in conformance with the regulations of the zoning district in which it is located, if and only if, approved by the Board of Adjustment as provided in subsection 2.02-9.

A CUP issued by the Woodbury County Board of Adjustment is required before associated building permit(s) can be issued in unincorporated Woodbury County.

- C. **Concentrating Solar Power Systems.** A system that generates solar power by using mirrors, lenses, or similar reflecting surfaces to concentrate sunlight collected over large areas onto smaller focal areas. Concentrating solar power systems are prohibited.
- D. **Feeder Circuits/Lines.** A power line or network of lines used as a collection system that carries energy produced by a solar energy system to an interconnection point like a substation. Feeder circuits are most often placed underground.
- E. **Glare/Glint.** Light reflected off of a surface.
- F. **Ground-Mounted System.** A system where a rack(s) of panels is mounted on concrete posts or poles anchored in the ground and are wired or plumbed to an adjacent home or structure.
- G. **Interconnection.** Link between a generator of electricity and the electric grid. Interconnection typically requires connection via infrastructure such as power lines and a substation, as well as a legal agreement for the project to be connected to the grid.
- H. **Module.** An individual unit comprised of multiple photovoltaic (PV) cells, with multiple modules used in a solar energy system.
- I. **Mounting.** The method of anchoring solar energy system modules to the ground or a building.
- J. **Non-Participating Landowner.** A landowner who has not signed a binding agreement with the Applicant/Developer/Owner of the US-SES project.
- K. **Occupied Residence.** A building designed for, and occupied on a regular basis (50% or more of the year, and is currently occupied or has been occupied in the last two years) as an abode.
- L. **Operator.** The entity or individual that operates a US-SES.
- M. **Owner.** The entity or entities with an equity interest in the US-SES, including their respective successors and assigns. Owner does not mean the landowner from whom a lease, easement, or other property right is acquired for locating the US-SES unless the landowner has an equity interest in the US-SES.

- N. **Participating Landowner.** A landowner under lease, easement or other binding property agreement with the applicant, developer, or owner of the US-SES.
- O. **Photovoltaic (PV) Cells.** Semiconductors which generate electricity whenever light strikes them; generally grouped on panels.
- P. **Project Area.** The geographic area encompassing all components of a US-SES project, including border fencing.
- Q. **Property Line.** The legal boundary between separately owned real estate parcels, and between privately owned parcels and public owned land or public right of way.
- R. **Setback.** The minimum distance from a certain object, structure or point to the edge of any part or component of the US-SES.
- S. **Solar Array.** Equipment used for private or utility scale solar energy systems. Can be mounted on primary or accessory structures, on a racking system affixed to the ground, or integrated as a mechanical or structural component of a structure.
- T. **Solar Collector.** A device, structure or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
- U. **Solar Easement.** An easement created to protect a solar project from encroachment by adjacent properties which would shade panels. See Iowa Code 564A.
- V. **Solar Energy.** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- W. **Solar Energy Systems, Private.** An energy system that converts solar energy to usable thermal, mechanical, chemical, or electrical energy primarily for immediate onsite use that already has an existing principal use on the same parcel. Solar Energy Systems, Private shall be allowed only as a non-utility scale accessory use to a permitted principal use. Surplus energy sold back to a utility must comply with all applicable laws including but not limited to Section 199, Chapter 15.11(5) of Iowa Administrative Code, and all requirements of the Iowa Utilities Board. Systems can be mounted on primary or accessory structures, on a racking system affixed to the ground, or integrated as a mechanical or structural component of a structure.

- X. **Solar Energy Systems, Utility Scale (US-SES).** An energy system, commonly referred to as a “solar farm”, which converts solar energy to useable thermal, mechanical, chemical, or electrical energy primarily for transmission through the electrical grid for offsite use or wholesale and/or retail sale. Systems can be mounted on primary or accessory structures, on a racking system affixed to the ground, or integrated as a mechanical or structural component of a structure. Utility scale solar energy systems do not include concentrating solar power (CSP) systems.
 - Y. **Solar Panel.** 1) A grouping of photovoltaic cells used to generate electricity directly from sunlight. A grouping of these panels is called an array. 2) A panel circulating water or other liquid through tubes to collect, transfer and store the sun’s heat for domestic hot water and building heat.
 - Z. **Solar Storage Battery.** A device that stores energy from the sun and makes it available in an electrical form.
 - AA. **Solar Storage Unit.** A component of a solar energy device that is used to store solar-generated electricity or heat for later use.
 - BB. **Substation.** A facility that converts electricity produced by a generator like a solar energy system to a higher voltage, allowing for interconnection to high-voltage transmission lines.
 - CC. **System Height.** The height of a solar energy system, usually referring to ground mounted systems. Total system height is the measurement from the ground to the top of the mounting or modules associated with a system.
 - DD. **Transmission lines.** Power lines used to carry electricity from collection systems or substations over long distances.
3. **Applicability.** Section 5.08 applies to US-SES within unincorporated Woodbury County. It shall be unlawful to construct, erect, install, alter, locate, or operate any US-SES within unincorporated Woodbury County, without first obtaining a Conditional Use Permit from the Woodbury County Board of Adjustment.

At all times, US-SES shall comply with the terms of the Conditional Use Permit, the agreements and plans associated with the Conditional Use Permit, and the Woodbury County Zoning Ordinance.

4. **Conditional Use Permit (CUP).** US-SES shall require a Conditional Use Permit within the General Industrial (GI) Zoning District. US-SES is prohibited in all other Zoning Districts in Woodbury County. This use shall be subject to the procedures and standards included in this Ordinance. Concentrating solar power systems are prohibited.

5. **Application Materials.** In addition to all submittal requirements of a conditional use application, the application for a US-SES installation shall include the following information on the site plan or in narrative form, supplied by the utility scale installation owner, operator or contractor installing the structures:

- A. The name and address of the applicant, as well as the proposed owners or operators of the project, including the contact information (name, address, telephone and email) of their authorized representatives. The application shall designate the entity who requests the Conditional Use Permit.
- B. A certified abstractor listing of the names and mailing addresses of all owners of real property lying within one (1) mile from the subject property shall be provided with the application.
- C. Legal descriptions of all properties, leased and/or owned, identified to be part of the project area.
- D. Location and size of existing and proposed structures.
- E. Location and layout of vehicle parking, loading and queuing areas, street accesses, and driveways.
- F. Number, location and spacing of solar panels/arrays.
- G. Planned location of underground or overhead electric lines.
- H. Project development timeline which indicates how the applicant will inform adjacent property owners and interested stakeholders in the community.
- I. Pre-construction survey of nearby roads that may be impacted by construction of the facility.
- J. Flood hazard area designations
- K. Interconnection Agreement.
- L. Operation and Maintenance Plan.
- M. Decommissioning Plan.
- N. Soil Erosion and Sediment Control Plan
- O. Setback analysis showing the minimum setback requirements, or any agreed on greater setback provisions, are met by the project.

P. Emergency Response Plan

Q. Such other information as the Zoning Director may require to determine compliance with the provisions of this Ordinance.

6. **Requirements.** US-SES are subject to the following requirements:

A. No application for a US-SES Conditional Use Permit shall be granted without first submitting all required information and documentation, and paying all associated fees to the County.

B. **Setbacks.** The Zoning District Dimensional Standards of Section 3.04 shall apply.

C. **Height.** A solar panel shall be no less than two (2) feet (Twenty-Four inches) off the ground. A solar panel shall not exceed twenty (20) feet in height above grade at maximum tilt of the solar panel(s).

D. **Screening.** Project shall provide vegetative screening for all residences within 200 feet of the project boundaries.

(1) Applicant shall submit a screening plan for each residence within 200 feet of the project boundaries.

(2) Screening may be waived by the owner of a residence. Waiver must be in writing and recorded.

(3) Screening may be waived by the Board of Adjustment upon submission of a viewshed study from the applicant demonstrating that the project is not within the viewshed of the dwelling due to topography, existing vegetation, or other factors. The point of reference used in the viewshed study shall be as close to the dwelling as possible.

(4) Any vegetative screening within the project boundaries shall be maintained throughout the life of the project by the project owner. Any screening on the dwelling property shall be maintained by the project owner for no less than twelve months.

(5) Deciduous trees shall have a minimum caliper of 1.5" when planted, shall be at least six (6) feet tall within three (3) years of installation, and shall have a minimum mature height of twelve (12) feet.

(6) Screening plans shall use no less than two varieties of tree.

- E. **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.
 - F. **Glare minimization.** All solar panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic, including air traffic, or create a safety hazard.
 - G. **Appurtenant structures.** All appurtenant structures shall be subject to bulk and height regulations of structures in the underlying zoning district.
 - H. **Floodplain considerations.** Utility scale solar installations are considered to be maximum damage potential structures and facilities for purposes of the floodplain district regulations.
 - I. **Fencing/security.** A security fence must be installed along all exterior sides of the utility scale solar installation and be equipped with a minimum of one gate and locking mechanism on the primary access side. Security fences, gates and warning signs must be maintained in good condition until the US-SES installation is dismantled and removed from the site.
 - J. **Compliance with local, state and federal regulations.** US-SES installations shall comply with applicable local, state and federal regulations.
 - K. **Submittal Requirements.** In addition to the requirements in Section 2.02.9, the applicant shall submit all required materials contained in this Section at the time of the application for a Conditional Use Permit.
7. **Permitting Process.** In addition to the items required for a conditional use permit application in subsection 2.02-9. C, the process for a US-SES conditional use permit shall include the following:
- A. Application for approval of a permit to construct a US-SES shall be submitted to the Zoning Director on a permit application form provided by the Zoning Director and must include any additional information determined by the Zoning Director as necessary to demonstrate compliance with all applicable codes and requirements, along with the application fee, as established by resolution of the Board of Supervisors.
 - B. As conditions for approval, the following agreements must be executed with Woodbury County:
 - (1) Decommissioning, Abandonment, Financial Security, and Site Restoration Plan

- (2) Woodbury County Road Use and Repair Agreement
- (3) Woodbury County Public Drainage System Protection Agreement

C. Distribution. The Zoning Director shall distribute copies of the application materials to the Planning and Zoning Commission and to the appropriate County departments, and public utilities for comment.

D. Staff Review. The appropriate county departments shall review the application and prepare reports of their findings and comments to the Planning and Zoning Commission prior to the review.

- (1) To assure conformance with the goals and objectives of the county's comprehensive plan, the Zoning Director may make recommendations for conditions for approval including use restrictions required to preserve and improve the peace, safety, health, welfare, comfort, and convenience of the future residents of the subdivision and neighboring properties.

E. All US-SES permit applications shall require review by the Woodbury County Planning and Zoning Commission and approval by the Woodbury County Board of Adjustment following the standards and procedures for Conditional Uses as outlined in Section 2.02-9 of the Woodbury County Zoning Ordinance and shall follow the same schedule for submitting applications.

F. Expiration. A Conditional Use Permit issued by the Board of Adjustment for a US-SES shall expire at the end of one (1) year from issuance if a US-SES building permit has not been obtained from the Board of Supervisors as provided in subsection 5.08-8. After expiration, a new US-SES conditional use permit application would have to be filed and approved prior to application for a US-SES building permit.

8. **US-SES Building Permit Requirement.** In addition to the requirements of the Conditional Use Permit, each US-SES project must obtain an approved US-SES Building Permit from the Board of Supervisors prior to the start of any construction. An approved US-SES Building Permit shall be valid for one (1) year from the date of its issuance. The Zoning Department will supply a US-SES Building Permit application form to be used by any person or entity seeking to construct a US-SES project. The application shall contain:

- A. The name and address of the applicant, as well as the proposed owners or operators of the project, including the contact information (name, address, telephone and email) of their authorized representatives. The application shall designate the entity who will be the permit holder of the US-SES Building Permit.

- B. A Final Development Plan for the project, which shall contain aerial images of the entire proposed project area, showing the proposed location of the solar arrays, private access roads, feeder lines, substations and all other components of the project. The Plan shall show property lines and setback distances, as well as all public roads and public drainage district facilities (i.e. – ditches and underground tiles) in the project area. The Plan shall also identify any wind turbines, communication antennae, and airports (including private airstrips) located within five (5) miles of the project area; city boundaries within two (2) miles; and all lakes, permanent water courses and Public Conservation Areas within three (3) miles of the project area boundaries. In providing the above information, the Plan shall use a GPS coordinate system that is compatible with the County's geographical information and data systems. The Plan shall also include a mailing address for the owner of each communication antenna identified.
- C. Project details, including the name of the project, the final number of arrays, generating capacity, and all the requirements of the Conditional Use Permit application as included in this Section.
- D. Approval. Approval of the US-SES building permit by the Board of Supervisors shall be based upon findings that the proposed use of the site and the proposed location and dimensions of the structure(s) on the subject parcel(s) of real property comply with the zoning provisions of this ordinance, the conditions of the Conditional Use Permit and that no longer than one year has passed since the issuance of the Conditional Use Permit. The Board of Supervisors must also ensure that agreements and plans as outlined in this Section are in place as part of the building permit issuance process.
- E. Denial. If a building permit application is denied, the application shall be returned to the applicant with a written explanation of the reasons for the denial.
- F. Expiration. A building permit shall expire and become void if the construction or change in use of the property has not commenced within one year after issuance. If necessary, additional one-year renewals may be approved at the sole discretion of the Board of Supervisors.

9. Woodbury County Road Use and Repair Agreement

- A. **Roads.** Applicants shall adhere to the Woodbury County Road Use and Repair Agreement, and in doing so, shall identify all roads to be used for the purpose of transporting solar components, substation parts, cement, and/or equipment for construction, operation or maintenance of the solar installation and obtain applicable weight and size permits from the impacted road authority prior to construction.

- B. **Existing Road Conditions.** Applicants shall conduct a pre-construction survey, in coordination with the impacted local road authorities to determine existing conditions of roads identified pursuant to Section 6.1. The survey shall include photographs or video and written documentation of the condition of the identified road facilities. The applicant is responsible for on-going road maintenance and dust control measures identified by the County Engineer during all phases of construction.

10. **Woodbury County Public Drainage System Protection Agreement**

- A. Applicants shall adhere to the Woodbury County Public Drainage System Protection Agreement, and in doing so, shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the US-SES (where required).

11. **Operation and Maintenance Plan.** The applicant shall submit a plan for the operation and maintenance of the solar installation including all necessary services, frequency of service, preventative maintenance measures, and monitoring. The operation and maintenance plan should include at a minimum:

- A. Preventative maintenance practices and schedules for all on-site equipment including but not limited to: inverters, panels, equipment pads, tracking systems, transformers, access entrances, internal roads, gates, fencing, security systems, stormwater management installations.
- B. Annual reporting and verification to the Zoning Director on the status or changes to ongoing service schedule.
- C. Schedule of all other monthly, annual, or semiannual reporting requirements for other submittals including: agricultural impact mitigation plan, decommissioning plan, and vegetation management plan.
- D. Noise. No operating solar energy equipment shall produce noise exceeding any of the following limitations, with the exception of initial construction and routine maintenance. Adequate setbacks and effective noise mitigating equipment shall be used to comply with these limitations:
 - (1) An hourly average noise level of fifty-five (55) dBA during the day (between sunrise and sunset), and an hourly average noise level of fifty (50) dBA at night (between sunset and sunrise), as measured at the occupied dwelling of any adjacent property containing an existing residential structure. If the ambient sound pressure level exceeds 55 dBA during the day or 50 dBA at night, the standard shall be the ambient Leq (equivalent continuous sound pressure level) plus 5 dBA.

- (2) A baseline noise evaluation shall be completed by a board certified professional by the Institute of Noise Control Engineering (INCE), or an appropriately licensed Professional Engineer (PE) prior to construction of the proposed solar site.
 - (3) A post-construction noise evaluation shall be performed by a third-party board certified professional by the Institute of Noise Control Engineering (INCE), or an appropriately licensed Professional Engineer (PE) following commencement of commercial operation of the project to verify compliance with the County's standards.
 - (4) The owner(s) of adjacent properties within 500 feet may voluntarily agree, by written and recorded waiver, to a higher noise level.
- E. Issue resolution protocols. Contact information for responsible party to address issues that may arise (damaged equipment causing excessive noise, etc.).
 - F. Disposal/recycling plan for damaged or obsolete facility equipment or hazardous waste. No storage of inoperable or obsolete equipment shall be allowed to remain on-site. Site operator shall be responsible for the cleanup of debris related to storm damage.
 - G. Cleaning chemicals and solvents. During operation of the proposed installation, all chemicals or solvents used to clean photovoltaic panels should be low in volatile organic compounds and the operator should use recyclable or biodegradable products to the extent possible. Any on-site storage of chemicals or solvents shall be referenced.
 - H. Maintenance, repair, or replacement of 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.
 - I. Repowering. Proposals to replace more than twenty five percent (25%) of the panels in a facility within a twelve (12) month period will be required to submit a new Conditional Use Permit application based on the requirements in this ordinance for review and approval. A repowering event does not include replacement of panels in previously approved locations due to weather damage, equipment failure, or a force majeure event.

- (1) The plan shall include updated information for some or all of the reports and plans required by this section, as determined necessary by the Zoning Director.
- (2) The Board of Adjustment shall review and approve, conditionally approve, or deny the repowering plan as per the requirements of Sections 2.02.9 and 5.08.

12. Decommissioning, Abandonment, Financial Security, and Site Restoration Plan.

- A. The application must include a decommissioning plan that describes the following:
 - (1) The anticipated life of the utility scale solar installation.
 - (2) The anticipated manner in which the project will be decommissioned, including plans to recycle components and dispose of any hazardous materials.
 - (3) The anticipated site restoration activities.
 - (4) The estimated decommissioning costs in current dollars.
 - (5) The method for ensuring that funds will be available for decommissioning and restoration of the site.
- B. Decommissioning cost considerations. The applicant shall provide the estimated cost of decommissioning, excluding the salvage value, should be presented from both the solar applicant and from an independent third-party engineer, at the recommendation of the Woodbury County Engineer, at the expense of the applicant.
 - (1) Removal of any hazardous materials at the facility, as determined by a Toxic Characteristic Leaching Procedure (TCLP) or other similar test approved by Woodbury County and as described in the facility's Operations and Maintenance Plan. TCLP testing shall be performed prior to any ground disturbance at the project site.
 - (2) Salvage value shall not be included in the cost estimate.
 - (3) The estimated decommissioning cost must be updated every 5 years of the project using the same process as the initial decommissioning cost process.
- C. Site restoration activities. Restoration activities shall include, but not be limited to, the following:

- (1) Removal of all components and equipment.
- (2) Soil in project area shall be decompacted and seeded with a cover crop, unless otherwise specified in the approved vegetation plan and/or agricultural impact mitigation plan.
- (3) For any part of the energy project 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.

D. Performance agreement and proof of financial surety. At the time of permitting, the applicant, facility owner, or site operator shall 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 required in an amount of 125% of the most recent estimated decommissioning total cost paid for by the project owner/developer. The decommissioning funds shall remain in place until one (1) year after the last day of decommissioning unless sooner released by the Woodbury County Board of Supervisors
- (2) Decommissioning funds shall be maintained in the form of a performance bond, surety bond, escrow account, bank letter of credit, stable parent company guarantee, or other form of financial assurance as approved by the Woodbury County Board of Supervisors. Any financial document evidencing the maintenance of the decommissioning funds shall include provisions for releasing the funds to the County or a contractor hired by the County in the event decommissioning is not timely completed as outlined herein.
- (3) Prior to any ground disturbance, grading or construction activity on the site, one-hundred twenty-five percent (125%) of total estimated decommissioning costs shall be provided by any of the means listed above.
- (4) Financial surety shall be maintained for the life of the project.
- (5) Proof of recertification of the financial surety instrument must be submitted to the County annually. The county shall be notified immediately if the financial security instrument is cancelled, lapses, or otherwise is no longer in effect.

- (6) Every five (5) years, the facility owner or operator shall retain an independent Licensed Iowa Engineer approved by the County to re-estimate the total cost of decommissioning and attest that the value of the financial surety instrument is appropriate. This report shall be filed with the County and shall incorporate any new industry information learned since the last cost determination.
- (7) The required amount of the decommissioning fund shall match the re-estimated cost of decommissioning. Within ninety (90) days of filing the re-estimation report with the County, the facility owner or operator shall cause the fund balance of the financial surety instrument to be adjusted to ensure that it matches 125% of the re-estimated decommissioning cost.

E. 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 landowner or tenant shall notify the Zoning Director 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 facility will be considered abandoned or out of commission in the following circumstances:
 1. Upon termination or expiration of the solar farm leases/easements; or
 2. After one year without production, storage of energy, or use as a backup facility; or
 3. Failure to comply with the terms of the Conditional Use Permit after written notice of infractions from the County and a period of no less than 90 days to allow the operator to bring the US-SES into compliance.
 4. Exceptions could be made for:
 - a. A force majeure 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. The project is pending completion of construction of the facility due to a backlog of cases or service requests in the MISO queue.
- d. A situation in which the project owner can provide evidence to the Woodbury County Board of Supervisors, that the facility's period of continuous inactivity is due to circumstances beyond the project owners control and that the facility has not been abandoned.
- e. Appeal of the notice of abandonment from the county within a set time of the project owner's receipt of the notice in which the project owner explains the reasons for operational difficulty and provides a timeframe for corrective action that the county deems reasonable.

13. **Soil Erosion and Sediment Control Plan.** A grading plan shall be submitted and shall include all proposed changes to the landscape of the site (e.g., clearing, grading, topographic changes, tree removal, etc.). The plan shall be accompanied with the following documentation:

A. Erosion and Sediment Control

- (1) 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 damage to local roads or adjacent areas and to prevent sediment-laden run-off into waterways.

B. Stormwater Management Plan

- (1) For the purposes of pollutant removal, stormwater rate and runoff management, flood reduction and associated impacts, the applicant shall provide a detailed analysis of pre- and post-

development stormwater runoff rates for review by local jurisdictional authorities.

14. Emergency Response Plan

- A. The applicant shall submit an emergency response plan prior to any ground disturbance at the project site detailing the planned response actions that will be taken by the solar facility operator, including any battery energy storage systems in the event of an emergency situation. These actions are intended to minimize health risks to personnel and people in the surrounding community, as well as minimize adverse impacts to the environment.
- (1) The plan shall include, but is not limited to, a detailed narrative of response procedures and the facility representatives responsible for management of the following plausible contingencies that could occur at the facility: natural disaster/severe weather, fire, security incident, capacity/transmission, environmental, chemical, pipeline (if applicable), and medical. It shall include procedures for a site evacuation, designated egress routes and emergency staging areas.
 - (2) The plan shall include a standalone section detailing the emergency response protocols specific to battery energy storage areas (if applicable).
 - (3) The plan shall be developed in coordination with local first responders, Woodbury County Emergency Management & Siouxland District Health personnel.

15. Future Operators

- A. Future operators, successors, assignees, or heirs of an US-SES are subject to all conditions of the Conditional Use Permit, its associated agreements and plans, and this Ordinance. The holder of a US-SES Conditional Use Permit shall notify the County at least 90 days prior of the intent to sell or transfer or change operators of the US-SES.

16. Enforcement

A. Violations

- (1) It shall be unlawful to locate, erect, construct, reconstruct, alter, repair, convert, or maintain any building, land, or structure, or use any land, building or sign in violation of any regulation in, or any provisions of, this Section, or any amendment or supplement

thereto, lawfully adopted by the County Board of Supervisors; or to fail to comply with any requirement or condition imposed by the Board of Adjustment.

- (2) Any person, firm or corporation found to be in violation of any provision of this Section shall be served written notice by the Zoning Director or designee stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Such person shall, within the period of time stated in the notice, take all necessary action to correct the violation and shall permanently cease such violation.
- (3) Each day during which the violation continues shall be a separate violation.
- (4) A Notice of Violation may be served as a first attempt to gain compliance. If compliance is not met with the sending of a Notice of Violation then a Citation shall be served on the property owner. The offender shall be provided a reasonable time, (not to exceed) thirty (30) days in which to correct the violation. A violation which occurs for a short period of time is observed and there is no other reasonable means for ensuring compliance, be served a citation immediately upon observation of a violation.
- (5) If the violation is not corrected, Woodbury County may seek such remedies, civil or criminal as are authorized by law.

17. Penalty

- A. The Zoning Director or designee may assess the maximum civil penalty per day for each violation allowed upon each violation, as outlined in the Woodbury County Zoning Ordinance that continues to exist.
- B. Remedies
 - (1) If work is being done in violation of any provision of this Section and continues beyond the date of notice and the work is not being done to correct a violation, an immediate stop-work order shall be issued by the Zoning Director. Such order shall be given to the owner of the property, the authorized agent(s), or the person or persons in charge of the activity on the property and shall be posted upon the property. The stop work order shall state the conditions under which work may be resumed.
 - (2) Violations by an individual or property owner will prohibit any additional permits for that property or other properties to be

issued unless said permits will remedy abatement of the violation. Stop work orders will be placed on any work on other property in which the violator is operating or owns.

- (3) If the Zoning Director determines that a violation is an immediate threat to public safety or welfare and the property owner or operator has failed to take corrective action within the time period stated in the notice provided, Woodbury County may take such remedial action as is necessary to protect the public safety or welfare. Such remedial action may include entering the property where a violation is present, correcting the violation, and placing a lien on the property to secure payment and reimbursement of any and all expenses incurred by Woodbury County to correct such violation.
- (4) Woodbury County may seek other such remedies, civil or criminal as are authorized by law.

Severability

Should any section or provisions of this Ordinance be declared by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be invalid or unconstitutional.

Effective Date

This Ordinance shall be in effect after its final passage, approval, and publication as provided by law.

Passed and adopted by the Woodbury County, Iowa Board of Supervisors on this _____ day of _____, 20____.

THE WOODBURY COUNTY, IOWA BOARD OF SUPERVISORS

Matthew Ung, Chairman

Daniel Bittinger II, Vice-Chairman

Mark Nelson

Attest:

Keith Radig

Patrick F. Gill, Woodbury County Auditor

Jeremy Taylor

Adoption Timeline:

Date of Public Hearing and First Reading_____

Date of Public Hearing and Second Reading_____

Date of Public Hearing and Third Reading_____

Date of Adoption_____

Published/Effective Date_____



Daniel Priestly
Woodbury Co. Community & Economic Development
620 Douglas St. 6th Floor
Sioux City, IA 51101
dpriestley@woodburycountyiowa.gov

THIS IS NOT AN INVOICE

AFFIDAVIT OF PUBLICATION

#363136- Public Hearing - Solar Energy Systems

The undersigned, being first duly sworn on oath, states that Iowa Information Media Group, a corporation duly organized and existing under the laws of the State of Iowa, with its principal place of business in Sheldon, Iowa, the publisher of newspapers of general circulation as identified below, and printed and published in the city of Merville, Woodbury, Iowa, and that a legal notice, a printed copy of which is attached as Exhibit "A" and made part of this affidavit, was printed and published in the publication(s) and editions dated as follows:

363136

The Record 4/18/24

\$130.67

A handwritten signature in black ink, appearing to read 'Myrna Wagner', written in a cursive style.

Myrna Wagner
Management, The Record

Subscribed and sworn to before me by said
Myrna Wagner this 18th day of April, 2024

A handwritten signature in black ink, appearing to read 'Lori Wiersma', written in a cursive style.

Lori Wiersma
Notary Public in and for State of Iowa



Notice Regarding Public Hearings

NOTICE REGARDING PUBLIC HEARINGS BEFORE THE WOODBURY COUNTY BOARD OF SUPERVISORS FOR THE CONSIDERATION OF ZONING ORDINANCE TEXT AMENDMENTS TO ADDRESS THE REGULATIONS FOR "UTILITY-SCALE SOLAR ENERGY SYSTEMS (US-SES) CONDITIONAL USE" IN THE GENERAL INDUSTRIAL (GI) ZONING DISTRICT

The Woodbury County Board of Supervisors will hold public hearings on the following item of business, hereafter described in detail, on Tuesday, April 23, 2024 at 4:45 PM, Tuesday, April 30, 2024 at 4:50 PM and Tuesday, May 7, 2024 at 4:45 PM or as soon as possible thereafter as the matter may be considered. Pursuant to Iowa Code Section 331.302, the second and third public hearings may be waived by the Board of Supervisors.

Said hearings shall be held at the Woodbury County Courthouse, 620 Douglas Street, Sioux City, Iowa, in the Board of Supervisors' meeting room in the basement of the courthouse. Persons wanting to participate in the public hearings may attend in person during the meetings to comment.

Copies of said item may now be examined in the Woodbury County Auditor's office in said Courthouse by any interested persons. You may forward your written comments by mail or email to: Woodbury County Community and Economic Development, 6th Floor, Woodbury County Courthouse, 620 Douglas St., Sioux City, IA 51101; Emails should be sent to Daniel Priestley at: dpriestley@woodburycountyiowa.gov. Only signed comments will be considered and should be received no later than 10:00 AM on Tue., Apr. 23, 2024.

All persons who wish to be heard in respect to this matter should appear to participate in the aforesaid hearing.

Item One (1)

SUMMARY OF ZONING ORDINANCE TEXT AMENDMENTS FOR PROPOSED UTILITY-SCALE SOLAR ENERGY SYSTEMS (US-SES) CONDITIONAL USE IN THE WOODBURY COUNTY ZONING ORDINANCE.

SUMMARY: Amendment #1 – To add "Section 5.08. Utility-Scale Solar Energy Systems (US-SES) Conditional Use...83" on Page iii of the Woodbury County Zoning Ordinance in the "Table of Contents" under the "ARTICLE 5 SUPPLEMENTAL REQUIREMENTS" heading after Section 5.07. Special Event – RAGBRAI and Special Event – RAGBRAI with Alcohol...81."

SUMMARY: Amendment #2 – To add a new section to the Woodbury County Zoning Ordinance beginning

page 83 entitled "Section 5.08: Utility-Scale Solar Energy Systems (US-SES) Conditional Use" to regulate the conditional use permitting of "Utility-Scale Solar Energy Systems" within the General Industrial (GI) Zoning District. The purpose of this Section is to regulate the construction, installation, and operation of Utility-Scale Solar Energy Systems (US-SES) in Woodbury 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 and its provisions shall not apply to those properties or projects occurring within the incorporated cities of Woodbury County. The ordinance sets the requirements for the conditional use permitting of the US-SES including subsections that include Applicability, Conditional Use Permit (CUP), Application Materials, Requirements, Permitting Process, US-SES Building Permit Requirement, Woodbury County Road Use and Repair Agreement, Woodbury County Public Drainage System Protection Agreement, Operation and Maintenance Plan, Decommissioning, Abandonment, Financial Security, and Site Restoration Plan, Soil Erosion and Sediment Control Plan, Emergency Response Plan, Future Operators, Enforcement, Penalty, Severability, and Effective Date.

SUMMARY: Amendment #3 – Following the addition of Section 5.08, to appropriately renumber the subsequent page numbers for the "ARTICLE 6. DEFINITIONS" and Section 6.01: Construction of Terms. and Section 6.02: Definitions and to appropriately change the page numbers in the Table of Contents on page iii to the correct page numbers.

ENFORCEMENT PROVISIONS: Section 5.08

16. Enforcement

A. Violations

(1) It shall be unlawful to locate, erect, construct, reconstruct, alter, repair, convert, or maintain any building, land, or structure, or use any land, building or sign in violation of any regulation in, or any provisions of, this Section, or any amendment or supplement thereto, lawfully adopted by the County Board of Supervisors; or to fail to comply with any requirement or condition imposed by the Board of Adjustment.

(2) Any person, firm or corporation found to be in violation of any provision of this Section shall be served written notice by the Zoning Director or designee stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Such person shall, within the period of time stated in the notice, take all necessary action to correct the violation and shall permanently cease such violation.

(3) Each day during which the violation continues shall be a separate violation.

(4) A Notice of Violation may be served as a first attempt to gain compliance. If compliance is not met with the sending of a Notice of Violation then a Citation shall be served on the property owner. The offender shall be provided a reasonable time, (not to exceed) thirty (30) days in which to correct the violation. A violation which occurs for a short period of time is observed and there is no other reasonable means for ensuring compliance, be served a citation immediately upon observation of a violation.

(5) If the violation is not corrected, Woodbury County may seek such remedies, civil or criminal as are authorized by law.

17. Penalty

A. The Zoning Director or designee may assess the maximum civil penalty per day for each violation allowed upon each violation, as outlined in the Woodbury County Zoning Ordinance that continues to exist.

B. Remedies

(1) If work is being done in violation of any provision of this Section and continues beyond the date of notice and the work is not being done to correct a violation, an immediate stop-work order shall be issued by the Zoning Director. Such order shall be given to the owner of the property, the authorized agent(s), or the person or persons in charge of the activity on the property and shall be posted upon the property. The stop work order shall state the conditions under which work may be resumed.

(2) Violations by an individual or property owner will prohibit any additional permits for that property or other properties to be issued unless said permits will remedy abatement of the violation. Stop work orders will be placed on any work on other property in which the violator is operating or owns.

(3) If the Zoning Director determines that a violation is an immediate threat to public safety or welfare and the property owner or operator has failed to take corrective action within the time period stated in the notice provided, Woodbury County may take such remedial action as is necessary to protect the public safety or welfare. Such remedial action may include entering the property where a violation is present, correcting the violation, and placing a lien on the property to secure payment and reimbursement of any and all expenses incurred by Woodbury County to correct such violation.

(4) Woodbury County may seek other such remedies, civil or criminal as are authorized by law.

EFFECTIVE DATE:

This Ordinance shall be in effect after its final passage, approval, and publication as provided by law.