

Definitions

SOLAR ENERGY: Electromagnetic energy transmitted from the sun (solar radiation).

SOLAR ENERGY SYSTEM (SES): A device or structural design feature intended to provide for the collection, storage, and distribution of solar energy, thermal or electromagnetic, for heating or cooling, electricity generating, or water heating.

SOLAR ENERGY SYSTEM, BUILDING MOUNTED (BMSES): A device or structural design feature intended to provide for the collection, storage, and distribution of solar energy for heating or cooling, electricity generating, or water heating. The primary purpose or use of the BMSES shall be customary & clearly incidental to the principal use and only mounted to the roof or exterior sidewall of an accessory building, building, residential building, or detached building.

SOLAR ENERGY SYSTEM, UTILITY-SCALE (USES): Any non-building mounted SES with the primary purpose of delivering solar energy for heating/cooling, electricity generating, or water heating and distributing energy to the end user by electric utilities or power system operators. USES can also be referred to as a Solar Farm.

Add SOLAR ENERGY SYSTEM, BUILDING MOUNTED (BMSES) to the A-1 Agricultural, RR Rural Residential, C Commercial, LI Light Industrial, HI Heavy Industrial, NRC Natural Resource Conservation Zoning Districts, Permitted Uses.

Add SOLAR ENERGY SYSTEM, UTILITY-SCALE (USES) to the A-1 Agricultural Zoning District, Conditional Uses.

SECTION 3.16 Utility-Scale Solar Energy Conversion Systems (USES)

- A. Intent. The intent of regulations for Utility-Scale Solar Energy Conversion Systems (USES) is to encourage the development of alternative sources of energy while protecting the health, safety, and welfare of the public.
- B. Applicability. It shall be unlawful for any person, firm, or corporation to erect, construct in place, or place any USES without first receiving a permit(s) from the Zoning Administrator and/or Clay County. Nor may any person, firm, or corporation alter, modify, transform, add to, or change in any way an existing USES without first receiving a permit(s) from the Zoning Administrator and/or Clay County.
- C. General Standards.
 1. Utility-Scale Solar Energy Conversion Systems (USES) shall be a conditional use only on lands zoned A-1 Agricultural Zoning District.
 2. Signs. No advertising signs or logos shall be permitted on the SECS. One (1) project identification sign, not to exceed thirty-two (32) square feet, shall be allowed.
 3. An interconnection agreement must be completed with an electric utility. ~~Such agreements shall be part of the Conditional Use application.~~

4. Public Roads. The permittee shall obtain road haul/maintenance agreements with the applicable township, county, or state agency. Such agreements shall be part of the Conditional Use application.
5. Private Roads. The permittee shall promptly repair private roads, easements, or lanes damaged when moving equipment or when obtaining access to the site unless otherwise negotiated, in writing, with the affected landowner. Such agreements shall be part of the Conditional Use application.
6. Other standards and codes. All solar farms shall be in compliance with any applicable local, state, and federal regulatory standards for solar energy systems.

D. Application

1. Owner, managers, management company's, and all similar entity names, addresses, and telephone numbers.
2. Legal description of the site.
3. Copies of all Road haul/maintenance agreements, private road agreements, and interconnection agreements.
4. Evidence that the applicant is the owner of the property involved or has written permission from the owner to make such an application.
5. Documentation of specific information on the type, size, height, materials, manufacturer and model, rated power output, performance, and safety of the proposed USES and its electrical transmission equipment.
6. Proposed construction schedule.
7. Certificate of Insurance for the denomination approved with the Decommissioning Plan.
8. State the valuation of the proposed work.
9. Site Plan per Section 11.04 showing the ability to meet designated setback requirements, including maps showing measured distances and:
 - i. Physical dimensions and locations of the property, existing structures, and proposed structures.
 - ii. Location of electrical lines and facilities.
 - iii. Existing topography.
 - iv. Proposed grading and removal of natural vegetation.
 - v.
10. Any other information contained in the application and requested by the County Zoning Administrator.

E. Additional requirements

1. A Conditional Use Permit (CUP) is required, and a Solar Energy System, Utility-Scale (USES) facility is only eligible in the A-1 Agricultural Zoning District.
2. Setbacks. The following table list all applicable setbacks for USES.

Category	Setback
Waters of the State	200 feet
Dwellings, Churches, Schools, Businesses, Cemeteries,	2,640 feet
Incorporated Municipality Limits	5,280 feet

Federal, State, & County Road ROW	150 feet
Designated 100 Year Flood District	Prohibited
Designated State and County Parks.	5,280 feet
Additional	1000 feet

Note: Any authorized landowner that is within the separation distance may waive the separation distance through a written instrument to be filed with the Clay County Register of Deeds. This waiver shall run with the land.

- F. Safety/Access: An appropriate security/livestock fence (height and material to be established through the Conditional Use Permit process) shall be placed around the perimeter of the solar power plant, if appropriate or deemed necessary. Appropriate warning signage shall also be placed at the entrance and perimeter of the USES plant project.
- G. Decommissioning. The CUP application shall include a decommissioning plan with the following information:
1. Cost Responsibility: The owner or operator of a project is responsible for decommissioning that facility and for all costs associated with decommissioning that facility and associated facilities. The decommissioning plan must clearly identify the responsible party.
 2. Useful Life: A project is presumed to be at the end of its useful life if the facility generates no electricity for a continuous period of twelve (12) months. The presumption may be rebutted by submitting to the Planning Commission for approval of a plan outlining the steps and schedule for returning the project to service within twelve (12) months of the submission.
 3. Decommissioning Period: The facility owner or operator must begin decommissioning a project facility within eight (8) months after the time the SES and SES facilities reaches the end of its useful life, as determined in 12(b). Decommissioning must be completed within eighteen (18) months after the facility or solar energy system reaches the end of its useful life.
 4. Decommissioning Plan: Prior to approval of a Conditional Use Permit for an USES facility, the facility owner or operator must file the following documents with the Planning Director: the estimated decommissioning cost; USES and for restoring each haul road, in current dollars at the time of the application, for the proposed facility; a decommissioning plan that describes how the facility owner will ensure that resources are available to pay for decommissioning the facility at the appropriate time. The Planning Commission will review a plan filed under this section and shall approve or disapprove the plan in conjunction with the Conditional Use Permit application. The Planning Commission or Planning Director may at any time require the owner or operator of a project to file a report describing how the project owner or operator is fulfilling this obligation.

5. Decommissioning Requirements: To the extent possible, the site must be restored and reclaimed to the topography and topsoil quality that existed just prior to the beginning of the construction of the project. The landowner may request in writing that the access roads be retained. Decommissioning and site restoration, includes signing appropriate haul road agreements for the decommissioning process. Dismantling and removal of all USES-related equipment, foundations, buildings and ancillary equipment to a depth of forty-two (42) inches. Removal of surface road material and restoration of the roads and USES sites to substantially the same physical condition that existed immediately before construction of the project.
6. Financial Assurance: Before construction begins on the project, the facility owner shall provide to the Planning Department a certificate of insurance, including either a performance or surety bond, which covers the total cost to decommission the facility. The certificate of insurance shall be renewed and a copy submitted to the Planning Department each year the facility is in operation.
7. Failure to Decommission: If the project facility owner or operator does not complete decommissioning, the County Commission may take such action, as may be necessary, to complete decommissioning, including requiring forfeiture of the bond. The entry into a participating landowner agreement constitutes agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the Planning Commission may take such action as may be necessary to decommission a project facility and seek additional expenditures necessary to do so from the facility owner.

Sources:

Pennington County's ZO <http://docs.pennco.org/docs/PZ/ZoneOrdinance.pdf>, Page 136

Minnehaha County's ZO https://minnweb.minnehahacounty.org/index.php/home/1990-revised-zoning-ordinance-for-minnehaha-county/#FULL_ORDINANCE_-_PDF, Page 125