



STAFF REPORT

To: Summit County Council
From: Ray Milliner, County Planner
Date of Meeting: July 28, 2021
Type of Item: Code Amendment – Public Hearing, Possible Action
Process: Legislative

RECOMMENDATION: Staff recommends that the Summit County Council review the proposed language to create regulations for Solar Energy Systems in the Eastern Summit County Development Code conduct a public hearing and approve the attached Ordinance per the findings of fact, and conclusions of law in this staff report.

Proposal

The purpose of the amendments is to create regulations for Solar Arrays in Eastern Summit County. Currently the Code is silent on these structures.

Background

On September 17, 2020, January 7, 2021 and March 4, 2021, the Eastern Summit County Planning Commission conducted public hearings and reviewed new regulations for Solar Energy Systems in the Eastern Summit County Development Code. After reviewing and amending the language, the Commission forwarded a positive recommendation to the Council on March 4, 2021.

Because there are no regulations for these systems in the Eastern Summit County Development Code, they are prohibited. These regulations would give property owners the opportunity to have them on their property within certain parameters.

The County Council conducted a public hearing and reviewed the language on April 21, 2021 and requested that staff:

1. Contact other jurisdictions to learn about their processes and requirements. To address this issue, staff contacted several jurisdictions in the state (Tooele County,

Millard County, Washington County, Springdale City, etc.) to discuss their processes and any issues that have arisen in the past. Additionally, staff utilized model ordinances to ensure that terms and language was industry standard.

2. Amend the Major Solar System section to ensure that they are not placed in areas that would be visually and environmentally inappropriate. Staff removed the major solar array from all zones except the AG-80 zone. Although this zone is enormous, it is in more remote and less developed areas. The use is proposed as a conditional use which will give the Planning Commission the opportunity to mitigate impacts. The more sensitive riparian and wetland areas (Marion meadow areas, Hoytsville meadows etc.) are mostly zoned AG-40 or less and the use would be prohibited there.

Analysis

Section 11-5-3 of the Eastern Summit County Development Code establishes a process for amendments to the text of the Code, it states that whenever an amendment to the Code is initiated, it must be reviewed by the Planning Commission who will deliver a recommendation to the County Council. The County Council, after holding a public hearing, can approve, approve with modifications, or deny the amendment. There is no criterion.

The Eastern Summit County General Plan has specific goals related to future amendments.

Goal 5.1 states:

“Develop codes and policies that promote proper stewardship of natural resources and address environmental issues of Eastern Summit County.”

“a. Ensure that development occurs in a manner and location that protects natural resources, including but not limited to pollution prevention, erosion prevention, national forests, crucial wildlife habitat and corridors, agricultural lands, fisheries, water quality, wetlands, scenic view sheds, riparian areas, wildlife and clean air.”

Goal 5.2 States:

“Implement measures designed to promote energy conservation and the development of renewable energy in Eastern Summit County.”

Goal 2.1.i States:

“Create appropriate and predictable development procedures in the Development Code to ensure that all land use and development is adequately reviewed and determined to be consistent with the goals of this Plan before any approvals are granted.”

In its published vision statement, the Summit County Council stated

“Through environmental stewardship and leadership, the County will implement plans and policies to secure, preserve and protect our water, land and air quality for the present and future.”

Solar systems have been shown to reduce the need for electricity generated by fossil fuels, which in turn reduces air pollution, reduces the carbon footprint of a home, and reduces our reliance on fossil fuels. The proposed Solar Energy System regulations are designed to provide property owners with the opportunity to install solar systems on their property and to regulate and mitigate the impacts of the systems on adjacent property owners.

Recommendation

Staff recommends that the Summit County Council review the proposed language to create regulations for Solar Energy Systems in the Eastern Summit County Development Code conduct a public hearing and approve the attached Ordinance per the findings of fact, and conclusions of law in this staff report.

Findings of Fact

1. The goal of Chapter 2 of the Eastern Summit County General Plan is to develop land use codes which balance the diversity of desires of Eastern Summit County residents, including private property rights.
2. In furtherance of this goal, §11-1-1 of the Eastern Summit County Code provides that “The eastern Summit County general plan was developed to ensure that the rural, agricultural, and small-town character of the eastern portion of the county shall remain, even in the presence of growth and change. The intention of the county is to assure the managed, proper and sensitive development of land to protect and enhance these desired qualities and the lifestyle that exists.”
3. On September 17, 2020, January 7, 2021 and March 4, 2021 the Eastern Summit County Planning Commission conducted a public hearing and reviewed new regulations for Solar Energy Systems in the Eastern Summit County Development Code.
4. On March 4, 2021, the Eastern Summit County Planning Commission forwarded a positive recommendation to the County Council.
5. Solar systems have been shown to reduce the need for electricity generated by fossil fuels, which in turn reduces air pollution, reduces the carbon footprint of a home, and reduces our reliance on fossil fuels.
6. The proposed Solar Energy System regulations are designed to provide property owners with the opportunity to install solar systems on their property and to regulate and mitigate the impacts of the systems on adjacent property owners.

Conclusions of Law:

1. The amendment is consistent with the goals, objectives, and policies of the General Plan.
2. The amendment is consistent with the requirements established in chapter 5 of the Eastern Summit County Development Code.
3. The proposed amendment is not detrimental to public health, safety, and welfare.

Exhibits

Exhibit A. Proposed Ordinance

**SUMMIT COUNTY, UTAH
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING THE EASTERN SUMMIT COUNTY
DEVELOPMENT CODE SECTIONS 11-6: GENERAL REGULATIONS, 11-3-16: CHART OF ALLOWED
AND PERMITTED USES AND APPENDIX A: DEFINITIONS CREATING REGULATIONS ALLOWING
SOLAR ENERGY SYSTEMS**

PREAMBLE

WHEREAS, Utah Code Annotated (“UCA”) §17-27a-102(b) provides that counties can enact all ordinances that they consider necessary or appropriate to govern, among other things, Solar Energy Systems; and,

WHEREAS the goal of Chapter 2 of the Eastern Summit County General Plan is to develop land use codes which balance the diversity of desires of Eastern Summit County residents, including private property rights; and

WHEREAS, in furtherance of this goal, §11-1-1 of the Eastern Summit County Code provides that “The eastern Summit County general plan was developed to ensure that the rural, agricultural, and small-town character of the eastern portion of the county shall remain, even in the presence of growth and change. The intention of the county is to assure the managed, proper and sensitive development of land to protect and enhance these desired qualities and the lifestyle that exists.” and,

WHEREAS Summit County recognizes solar energy as a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce Summit County’s energy load; and

WHEREAS Summit County recognizes that energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated; and

WHEREAS, to establish the use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling as a priority and necessary component of Summit County’s current and long-term sustainability goals.; and

WHEREAS the Eastern Summit County Planning Commission held a public hearing on September 17, 2020, January 7, 2021, and March 4, 2021; and

WHEREAS the Eastern Summit County Planning Commission recommended adoption of the amended sections of the Eastern Summit County Development Code on March 4, 2021; and

WHEREAS the Summit County Council held a public hearing on April 21, 2021; and,

NOW, THEREFORE, the County Council of the County of Summit, State of Utah, ordains as follows:

Section 1. **EASTERN SUMMIT COUNTY DEVELOPMENT CODE** The Eastern Summit County Development Code is amended as depicted in Exhibit A.

Section 2. **Effective Date.** This Ordinance shall take effect immediately after publication.

Enacted this ___ day of _____, 2021.

ATTEST:

SUMMIT COUNTY COUNCIL

Kent Jones
Summit County Clerk

Glenn Wright, Chair

APPROVED AS TO FORM

David L. Thomas
Chief Civil Deputy

VOTING OF COUNTY COUNCIL:

Councilmember Stevens	_____
Councilmember Robinson	_____
Councilmember Wright	_____
Councilmember Armstrong	_____
Councilmember Clyde	_____

EXHIBIT A
PROPOSED AMENDMENTS TO CHAPTER 6

11-6-22: SOLAR ENERGY SYSTEMS

Purpose: The purpose of this section is to:

- Promote the accommodation of solar energy systems and equipment in Summit County.
- Recognize solar energy as a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce Summit County's energy load.
- Recognize that energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
- Establish the use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling as a priority and necessary component of Summit County's current and long-term sustainability goals.

1. MINOR SOLAR ENERGY SYSTEM

Minor Solar Energy Systems include:

- A. Building Integrated Solar Energy Systems
- B. Roof Mounted Solar Energy Systems
- C. Ground Mounted Solar Energy Systems

Property owners may utilize one or more Minor Solar Energy System(s) on a single parcel or lot provided that the system meets the criteria below as well as the criteria in subsections A, B, and C of this chapter.

- The parcel or lot must be located within a zoning district that lists this system as an allowed, conditional, or low impact use.
- The system must be 4,000 square feet in size or less. Square footage is calculated by measuring the length and width of the perimeter of the system (including any gaps between individual panels) and multiplying the two numbers.
AND
- The system may not produce more than 110% of the electricity consumed on site over the previous 12 (twelve) months.

A. Building Integrated Solar Energy System:

Standards: All Building Integrated Solar Energy Systems shall comply with the following:

1. The solar panels and equipment shall be integrated into the building envelope (walls, windows, roof system etc.).
2. All mechanical equipment such as wires and batteries etc., shall be screened from view.

B. Roof Mounted Solar Energy System:

Standards: All Roof Mounted Solar Energy Systems shall comply with the following:

1. Roof Mounted Solar Energy Systems on pitched roofs shall be mounted with a maximum distance of eight inches (8") between the roof surface the highest edge of the system.

2. Roof Mounted Solar Energy Systems on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
3. Roof Mounted Solar Energy Systems on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
4. Roof Mounted Solar Energy Systems on flat roofs shall not extend above the top of the surrounding parapet, or more than twenty-four inches (24") above the flat surface of the roof, whichever is higher.
5. Roof Mounted Solar Energy Systems on flat roofs shall be setback a minimum of two feet (2') from the edge of all exterior walls.
6. All Roof Mounted Solar Energy Systems shall have anti-reflective coating(s).
7. All Roof-Mounted Solar Energy Systems shall comply with the height limitations in the zoning district in which they are located.

C. Ground Mounted Solar Energy System:

Standards: All Ground Mounted Solar Energy Systems shall comply with the following:

1. The Ground Mounted Solar Energy System shall meet all applicable setback requirements for structures in the zoning district in which it is located.
2. The height of the Ground Mounted Solar Energy System, including any mounts, shall not exceed fifteen (15) feet when oriented at maximum tilt.
3. All Ground Mounted Solar Energy Systems shall be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.
4. Ground Mounted Solar Energy Systems shall be screened when possible and practicable using architectural features, earth berms, landscaping, or other screening.
5. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility.
6. All Ground Mounted Solar Energy Systems shall have anti-reflective coating(s).

2. MAJOR SOLAR ENERGY SYSTEM:

Major Solar Energy Systems include:

- B. Roof Mounted Solar Energy Systems
- C. Ground Mounted Solar Energy Systems

Property owners may utilize one or more Major Solar Energy System on a single parcel or lot given that the criteria in the above subsections B and C are met in addition to the Conditional Use Permit standards found in Section 11-4-7.

Standards for Major Solar Energy Systems: all Major Solar Energy Systems shall comply with the following:

- The parcel or lot must be located within a zoning district that lists this system as an allowed, conditional, or low impact use.
- The system must be greater than 4,000 square feet in size. Square footage is calculated by measuring the length and width of the perimeter of the system (including any gaps between individual panels) and multiplying the two numbers.
- **Reflectivity Plan:** All applications for a Major Solar Energy system shall provide a reflectivity plan that demonstrates the impacts of glare from the proposed energy system and provides recommendations for concentrated glare onto nearby structures or roadways.
- **Visual Assessment:** The applicant shall submit an assessment of the visual impacts of the Major Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including, for example, a digital viewshed report, [shall/may] be required to be submitted by the applicant.
- **Height:** The height of a Major Solar Energy System shall not exceed twenty feet (20') when oriented at maximum tilt.
- **Screening:** The applicant shall submit a screening & landscaping plan demonstrating adequate measures to screen the Major Solar Energy System through landscaping, grading, or other means. Views of the Major Solar Energy System shall be minimized, as reasonably practical and to the extent feasible, from public roadways and adjacent properties. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic impact of the system.
- **Electrical Wires:** All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility.
- **Sale to Public Utility Company:** When the energy produced by the Major Solar Energy System is proposed to be sold to a public utility company, the owner shall provide written confirmation that the public utility company to which the Major Solar Energy System will be connected has been informed and approves of the customer's intent to connect to their system.
- **Vehicular Circulation:** Vehicular circulation within the site shall be designed to minimize the extent of impervious materials and soil compaction.
- **Non-maintained Or Abandoned Energy systems:** Upon cessation of electricity generation by a Major Solar Energy System on a continuous basis for twelve (12) months, the County may notify and instruct the owner and/or operator of the Major Solar Energy System to remove the abandoned solar energy system. The notice shall provide a reasonable timeline for removal of the structure. The County may require a performance bond or other means of financial assurance to guarantee removal of abandoned structures.

APPENDIX A DEFINITIONS

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite or offsite consumption.

SOLAR ENERGY SYSTEM, GROUND MOUNTED: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

SOLAR ENERGY SYSTEM, MAJOR: Major Solar Energy Systems are Roof and Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot greater than four thousand (4,000) square feet.

SOLAR ENERGY SYSTEM, MINOR: Minor Solar Energy Systems include Building Integrated, Roof, and Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to four thousand (4,000) square feet *and* that generate up to one hundred ten percent (110%) of the electricity consumed on the site over the previous twelve (12) months.

SOLAR ENERGY SYSTEM, ROOF MOUNTED: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

