

§301.8. **GENERAL REGULATIONS.**

- A. **Conformance Required.** Except as hereinafter specified, no building, sign or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, which does not comply with all of the district regulations established by this ordinance for the district in which the building or land is located.

- B. **Street Frontage Required.** Except as permitted in Section 301.26 of this ordinance no lot shall contain any building used in whole or in part for single family or two family residence purposes unless such lot abuts for at least forty (40) feet on at least one public street.

- C. **Accessory Building.** No accessory building shall be erected in any front yard. Accessory buildings shall be distanced at least two (2) feet from alley lines or easement lines, and two (2) feet from the lot lines of adjoining lots which are in any "R" district, except the R-6 District, and on a corner lot they shall conform to the set-back regulations on the side street; however, in no case shall any eave or overhang extend closer than twelve (12) inches to a rear or side yard line, or an easement line. Accessory buildings must be erected separately from and a minimum horizontal distance of six (6) feet from any building projection, and may not be connected by a breezeway or similar structure. If any unenclosed balcony or unenclosed porch including any deck shall be constructed within six (6) feet from any accessory building the adjacent wall of said accessory building shall be not less than a two (2) hour fire wall. No unenclosed balcony or unenclosed porch or deck shall be constructed closer than three (3) feet to any accessory building. Any building so connected to the principal building shall be considered a part of the said principal building and must meet the space requirements thereof. An accessory building shall not occupy more than thirty (30) percent of the rear yard except in R-6 district, and shall not exceed fourteen (14) feet in height in any "R" district. This regulation shall not be interpreted to prohibit the construction of a four hundred forty (440) square foot garage on a minimum rear yard.

No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.

- D. **Corner Lots.** For corner lots, platted or placed of record after December 29, 1981, the front yard regulation shall apply to each street side of the corner lot. (See Attachment A for illustrations.)

- E. **Front Yard.** In all residential districts there shall be a minimum front yard required as stated in the bulk regulations for that particular district; provided,

however, that where lots comprising thirty (30) percent or more of the frontage within two hundred (200) feet of either side lot line are developed with buildings at a greater or lesser setback, the front yard requirement shall be the average of these building setbacks and the minimum front yard required for the undeveloped lots. In computing the average setback, buildings located on reverse corner lots or entirely on the rear half of lots shall not be counted. The required front yard as computed herein need not exceed fifty (50) feet in any case. (See Attachment A for illustrations.)

- F. **Required Yard Cannot Be Reduced.** No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum required by this ordinance. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure, or use for the purpose of complying with the provisions of this ordinance shall be included as part of a yard, open space, or off-street parking or loading space required under this ordinance for another building, structure, or use.
- G. **Permits Previously Issued.** Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any building, or part thereof, for which approvals and required permits have been granted before the enactment of this ordinance; the construction of which in conformance with such plans shall have been started prior to the effective date of this ordinance and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's control.
- H. **Zoning Districts Dividing Property.** Where one (1) parcel of property is divided into two (2) or more portions by reason of different zoning district classifications, each of these portions shall be used independently of the other in its respective zoning classification, and for the purpose of applying the regulations of this ordinance, each portion shall be considered as if in separate and different ownership.
- I. **Home Occupations.** Subject to the limitations of this section, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit. Any question of whether a particular use is permitted as a home occupation, as provided herein, shall be determined by the administrative official pursuant to the provisions of this ordinance. The regulations of this section are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in the home. This section recognizes that, when properly limited and regulated, such activities can take place in a residential structure without changing the character of either the neighborhood or the structure.

1. **Use Limitations.** In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:
 - a. Not more than one person who is not a resident on the premises shall be employed or independently contracted that conducts work on the premises unless specifically permitted elsewhere in this chapter.
 - b. No more than 50%, including storage area, of no more than one floor of the dwelling unit, shall be devoted to the home occupation.
 - c. No alteration of the principal residential building shall be made which changes the character and appearance thereof as a dwelling.
 - d. No stock of goods shall be displayed or sold on the premises in excess of storage area available as defined in Section 301.8(I.1.b).
 - e. The home occupation shall be conducted entirely within the principal dwelling unit or an approved accessory structure, and in no event shall such use be apparent from any public way.
 - f. There shall be no outdoor storage of equipment or materials used in the home occupation.
 - g. Not more than two commercially licensed vehicles used in connection with any home occupation shall be parked on the property.
 - h. No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residence shall be permitted.
 - i. No home occupation shall be permitted which is noxious, offensive or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other harmful, objectionable emissions.

2. **Home Occupations Permitted.** Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each such home occupation shall be subject to the use limitations set out in Section 301.8(I.1).
 - a. Providing instruction to not more than four students at a time.

- a. For private swim lessons, the following provisions shall be observed:
 - i. Hours of operation shall be limited to eight o'clock (8:00) A.M. through five o'clock (5:00) P.M. Monday through Friday, ten o'clock (10:00) A.M. through four o'clock (4:00) P.M. on Saturdays and one o'clock (1:00) P.M. through four o'clock (4:00) P.M. on Sundays.
 - ii. In addition to the residents of the premises, no more than three (3) outside employees or independent contractors shall be permitted on the premises at any given time.
 - b. Office facilities for accountants, architects, brokers, doctors, dentists, engineers, lawyers, insurance agents and real estate agents.
 - c. Office facilities for ministers, priests and rabbis.
 - d. Office facilities for salespersons, sales representatives and manufacturer's representatives when no retail or wholesale sales are made or transacted on the premises.
 - e. Studio of an artist, photographer, craftsperson, writer or composer.
 - f. Homebound employment of a physically, mentally or emotionally handicapped person who is unable to work away from home by reason of his or her disability.
 - g. Shop of a beautician, barber, hair stylist, dressmaker or tailor.
 - h. Bed and Breakfast establishments limited to not more than three guest rooms.
- April 3, 2017 – Ordinance 2837

J. **Prohibited Storage of Motor Vehicles.** Outdoor storage of motor vehicles not currently licensed shall be prohibited in all zoning districts, except motor vehicles held for sale by a licensed motor vehicle dealer at the dealer's place of business in a zoning district where motor vehicle sales are permitted.

- K. **Parking and Storage.** No person shall park, place, keep or store, or permit the parking or storage of a stock car, racing car, inoperable vehicle, vehicular component parts, or miscellaneous junk and debris on any public or private property unless it shall be in a completely enclosed building. This regulation shall not apply to legitimate businesses operating in a lawful place and manner provided, however, that such outside areas are screened from public view.
- L. **Visibility at Intersections in Residential Districts.** On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2-1/2) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines twenty-five (25) feet from the point of intersection of right-of-way lines.
- M. **Fences, Walls and Hedges.** Notwithstanding other provisions of this Ordinance, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard; provided that no fence, wall or hedge shall exceed four (4) feet in height within the building setback area adjacent to any public right-of-way. Six (6) feet high fences are allowed only outside front yard building setback areas. (A 'front' yard may be along the side or the rear of a home, if adjacent to the street.) Fences, walls and hedges in any district other than M-1, M-1A and M-2 Districts not exceeding six (6) feet in height are permitted within limits of side and rear yards. In M-1, M-1A and M-2 Districts fences and walls shall not exceed a height of eight (8) feet.
May 16, 2005 – Ordinance 2515
- N. **Building Lines on Approved Plats.** Whenever the plat of a land subdivision approved by the Planning Commission and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this Ordinance unless specific yard requirements in this Ordinance require a greater setback. Building lines shall be measured to the foundation.
- O. **Wind Energy Conversion Systems.**
1. **Purpose.** The purpose of this section is to allow and encourage the safe, effective and efficient use of small wind energy systems; identify locations in areas of the City which would be least adversely impacted by the visual, aesthetic, and safety implications of their siting; and enhance the ability of the providers of wind energy services to provide such services to the community quickly, efficiently and effectively.
 2. **Definitions.**

A. **Blade** – An element of a wind turbine which acts as a part of an airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

B. **Climbing Apparatus** – A fixed piece of equipment used to move an individual up or down the tower.

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C. **Height, Total System** – The height above grade of the wind energy system, including the tower generating unit, and the highest vertical extension of any blades or rotors. Height shall be measured from the adjacent grade of the tower to the tip of the turbine (blade) at its highest point.

D. **Meteorological Equipment** – Equipment primarily used to measure wind speed and directions, including other data relevant to locating an operational wind energy conversion system.

E. **Qualified Professional** – An individual certified by the manufacturer of a wind energy conversion system as qualified to install and/or maintain that manufacturer's wind energy conversion system.

F. **Rotor Diameter** – The diameter of the circle described by the moving rotor blades.

G. **Shadow Flicker** – Alternating changes in light intensity caused by the moving blade of a wind power generator casting shadows on the ground and stationary objects such as the window of a dwelling.

H. **Tower** – Vertical structure that supports the electrical generator, rotor blades, or meteorological equipment. Tower shall be limited to a single pole that is constructed without the support of guy-wires.

I. **Wind Turbine** – A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy.

J. **Wind Energy Conversion System** – A system consisting of at least one of the following: a wind turbine, a tower, and associated control or conversion electronics, which is intended to reduce on-site consumption of utility power, is incidental and subordinate to a permitted use on the same parcel and has a rated capacity of up to one hundred (100) kilowatts. Wind Energy Conversion Systems shall not be permitted within any R-1, R-2, R-4, R-5 or R-6 zoning district. No roof mounted wind energy conversion system shall be allowed.

3. **Accessory Use.** A wind energy conversion system shall only be allowed as an accessory use to a permitted principal use and shall require approval of a site plan by the City Council upon recommendation by the Planning and Zoning Commission prior to construction, installation, alteration, or location of such structure. The Planning and Zoning Commission and City Council may review a site plan at any time if an approved system does not comply with the rules set forth in this section and the conditions imposed by the City Council upon recommendation by the Planning and Zoning Commission. The City

Council upon recommendation of the Planning and Zoning Commission may set additional terms or timeframe for compliance for the wind energy conversion system. The owner/operator of the wind energy system shall obtain all other permits required by federal, state, and local agencies prior to construction of the system.

4. **Public Notification.** Following review of the site plan request for completion, the Director of Development Services shall set the Planning and Zoning Commission meeting date. Notice will be sent to the surrounding property owners within two hundred (200) feet of the property having the site plan considered. Notice shall be sent not less than seven (7) days and not more than twenty (20) days prior to the Planning and Zoning Commission meeting at which the site plan is first considered. The notice shall contain the date, time and location of the Planning and Zoning Commission Meeting and City Council Meeting.
5. **Site Plan Disapproval.** In the case of a proposed site plan for a wind energy conversion system, if the Planning and Zoning Commission disapproves of the site plan, such site plan shall require the favorable vote of at least four-fifths (4/5) of all of the members of the City Council.
6. **Bulk Regulations.**
 - A. **Minimum Lot Size:** One acre minimum lot size required for any tower mounted wind energy conversion system.

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 - B. **Minimum Setback Requirements:** All wind energy conversion systems shall require a setback of 110% of the total system height from any property line.
 - C. **Maximum Height:** Height shall be measured from the adjacent grade of the tower to the tip of the turbine (blade) at its highest point.
 1. For lots of one (1) and fewer than three (3) acres, the maximum height shall be sixty (60) feet.
 2. For lots of three (3) to seven (7) acres, the maximum height shall be eighty (80) feet.
 3. For lots of more than seven (7) acres, the maximum height shall be one hundred (100) feet.

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 - D. **Number of Systems Allowed:** No more than one (1) wind energy system may be placed on any parcel.
 - E. **Location:**
 1. Tower mounted wind energy conversion systems shall only be located outside of any minimum building setback requirements.
 2. No part of a wind energy conversion system shall be located within or over drainage, utility or other established easements, or on or over property lines.

3. A wind energy conversion system shall be in compliance with the guidelines of the Federal Aviation Administration (FAA) regulations.
 4. No wind energy conversion system shall be constructed within twenty (20) feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least five (5) feet.
7. **Minimum System Design Standards.** The following standards are required of all wind energy conversion systems and shall be deemed to be conditions of approval for every wind energy system.
- A. **Color:** The wind energy conversion system shall be white or light gray in color. Other neutral colors may be allowed at the discretion of the City Council upon recommendation of the Planning and Zoning Commission. The surface of the structure shall be non-reflective.
 - B. **Lighting:** No lights shall be installed on the tower, unless required by the Federal Aviation Administration (FAA)
 - C. **Signs:** One sign, limited to four (4) square feet, shall be posted at or near the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the phone number of the property owner/operator to call in case of emergency. Such sign shall be directly visible from any external fencing and/or landscaping. Brand names or advertising associated with any installation shall not be visible from any public right-of-way.
 - D. **Clearance of Blade Above Ground:** No portion of the tower mounted wind energy conversion system shall extend within thirty feet (30') of the ground. No blades may extend over parking areas, driveways or sidewalks.
 - E. **Installation:** Installation must be done by a qualified professional and according to manufacturer's recommendations.
 - F. **Noise:** The wind energy conversion system shall not exceed the requirements established in Chapter 228 of the Waukee City Code.
 - G. **Use of Electricity Generated:** A wind energy conversion system shall be used exclusively to supply electrical power for onsite consumption, except that when a parcel on which a wind energy conversion system is installed also receives electrical power supplied by a utility company, excess electrical power generated by the wind energy system and not presently needed for onsite use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code.

- H. **Automatic Overspeed Controls:** All wind energy conversion systems shall be equipped with manual and automatic overspeed controls to limit the blade rotation speed to within the design limits of the wind energy conversion system.
- I. **Electromagnetic Interference:** All blades shall be constructed of a nonmetallic substance. No wind energy conversion system shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No wind energy conversion system shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
- J. **Interconnection:** The wind energy conversion system, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa Utilities Board.
- K. **Wind Access Easements:** The enactment of this section does not constitute the granting of an easement by the City. The owner/operator shall provide covenants, easements, or similar documentation to assure sufficient wind to operate the wind energy conversion system unless adequate accessibility to the wind is provided by the site.
- L. **Shadow Flicker:** A shadow flicker model demonstrates that shadow flicker shall not fall on, or in, any existing residential structure. Shadow flicker expected to fall on a roadway or a portion of a residentially zoned parcel may be acceptable if the flicker does not exceed thirty (30) hours per year; and the flicker will fall more than one hundred feet (100') from an existing residence; or the traffic volumes are less than five hundred (500) vehicles on the roadway. The shadow flicker model shall:
 - 1. Map and describe within a one thousand foot (1,000') radius of the proposed dispersed wind energy system the topography, existing residences and location of their windows, locations of other structures, wind speeds and directions, existing vegetation and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speed;
 - 2. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations, calculate the total number of hours per year of flicker at all locations;
 - 3. Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including, but not limited to, a change in siting of the wind energy conversion system, a change in the operation of the wind energy conversion system, or grading or landscaping mitigation measures.
- M. **Appearance:** The property owner of any wind energy system shall

maintain such system in a safe and attractive manner, including replacement of defective parts, painting, cleaning, and other acts that may be required for the maintenance and upkeep of the function and appearance of such a system. The owner shall maintain the ground upon which the system is located in an orderly manner, such that is free of debris, tall grass and weeds, and any structures remain quality in appearance.

- N. **Climbing Apparatus:** The tower must be designed to prevent climbing within the first ten (10) feet.

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8. **Application Process.** All applicants who wish to locate a wind energy system must submit to the City's Development Services Department a plan including the following information:
- A. Complete property dimensions.
 - B. Location and full dimensions of all buildings existing on the property where the system is located, including exterior dimensions, height of buildings, and all uses on the property.
 - C. Location and distances of all buildings within two hundred feet (200') of the property and uses on property.
 - D. Location and dimensions of any other natural or manmade features within two hundred feet (200') of the property such as trees, ridges, highways, streets, bridges and underpasses.
 - E. Location of all easements upon the property where the system is to be located.
 - F. Proposed location of tower, including height and setbacks from property lines.
 - G. Drawings, to scale, of the structure, including the tower, base, footings and guy-wires, if any, and electrical components. The drawings and any necessary calculations shall be certified by a licensed engineer as meeting the requirements of the City of Waukee building codes.
 - H. Certification from a licensed engineer or qualified professional that the rotor and over speed controls have been designed for the proposed use on the proposed site.
 - I. Evidence that the proposed wind energy conversion system model has an operational history of at least one year.
 - J. Evidence that the applicant has notified the utility that the customer intends to install an interconnected customer owned generator, and that the generator meets the minimum requirements established by the utility and the Iowa Utilities Board. Off grid systems shall be exempt from this requirement.

- K. Evidence that the wind energy conversion system does not violate any covenants of record.
 - L. Evidence from a qualified professional that the site is feasible for a wind energy conversion system, or that covenants, easements and other assurances to document sufficient wind to operate the wind energy conversion system have been obtained.
 - M. Evidence that the proposed wind energy conversion system will comply with applicable federal aviation regulations, including any necessary approvals from the federal aviation administration.
 - N. Evidence that the applicant can obtain and maintain adequate liability insurance for the facility.
 - O. A noise study, if applicable.
 - P. A shadow flicker model, if applicable.
 - Q. Any other evidence or information as required by the Planning and Zoning Commission and City Council.
9. **Abandonment.** Any wind energy system that is not operated for a period of 180 consecutive days shall be considered abandoned and shall constitute a nuisance. Within the next 180 days, after notice from the City, the owner shall reactivate the tower or it shall be dismantled and removed at the owner's expense. Removal of the system includes the entire structure including foundations, transmission equipment and fencing from the property. If the abandoned wind energy system is not removed in the specified amount of time, the City may remove it and recover its costs from the wind energy conversion system owner or owner of the ground upon which it is located.
10. **New Technologies.** Should new technology present itself within the term of any permit or lease that is more effective, efficient, and economical, the permit holder may petition the City to allow the upgrade, provided the upgrade does not alter the conditions set forth in this chapter.
11. **Liability and Damages.** The owner/operator of a wind energy conversion system must demonstrate adequate liability insurance. Upon the granting of a permit, applicant shall assume full responsibility for any and all damages, claims, expenses, liabilities, judgments and costs of any kind, including reasonable attorney's fees related to or caused by the erection, location, use, or removal of a facility, whether on public or private property, and shall agree to hold the City harmless, indemnify and defend it from all such liabilities incurred or judgments entered against it as a result of the erection, location, use or removal of the facility.
12. **Engineer Certification.** Applications for wind energy conversion systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the applicable regulations and certified by a licensed professional engineer shall also be submitted. For roof mounted structures, an engineering analysis of the mounting method showing

compliance with all applicable regulations and certified by a licensed professional engineer shall also be submitted.

13. **Utility Notification.** A wind energy conversion system shall not be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
14. **Inspections.** At least every 24 months, every tower shall be inspected by a qualified professional who is regularly involved in the maintenance, inspection and/or erection of towers. At a minimum, this inspection shall be conducted in accordance with the tower inspection checklist provided in the Electronics Industries Association (EIA) Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures." A copy of the inspection record shall be provided to the City of Waukee.

[subsection "O" in entirety] August 3, 2009 – Ordinance 2652

P. **Temporary Uses.** The City recognizes that in certain instances, some flexibility to allow activities or uses on a limited duration out of the confines of a building can be beneficial to business interests, as well as the consumers and the City alike, provided such events continue to promote the public health, safety and general welfare. These regulations are intended to prescribe the conditions under which limited duration temporary sales may be permitted on private property, public property, parks, sidewalks and streets.

1. **Definitions.** For the purpose of this chapter, the following terms shall have or include the following meanings:
 - A. **Temporary Use.** Any sales in any nonresidential district including, but not limited to the sales of fresh fruits/vegetables, baked goods, and hand crafted items, provided such use is authorized in such Zoning District.
 - B. **Temporary Structures.** Any constructed or erected structure, including but not limited to a shed, building, vehicle, trailer, tent or enclosure of any kind used for commercial or business purposes which any person or business intends to place on the same lot with or on any lot adjacent to, any permanent structure used for business or commercial purposes.
 - C. **Garden Center.** A place of business where retail and wholesale products and produce are sold. The items sold may include, but is not limited to plants, nursery products, potting soil, and gardening tools and utensils.
 - D. **Produce Stands.** A temporary structure used for the display and sale of raw fruits and vegetables.
 - E. **Food/Beverage Stand.** A temporary structure used for the display and sale of prepared food and beverages.

2. **Uses Exempt from Temporary Use Permits.**

- A. Farmer's Markets sponsored by the City of Waukee or the Downtown Business Association.
 - B. Produce stands that meet the following conditions:
 - 1. The temporary structure and sales area shall not exceed more than two parking spaces or 360 square feet.
 - 2. The site area shall be cleaned of debris, temporary structures, and any other objects associated with the temporary use at the end of each business day.
 - 3. No sign permit is required for temporary signage, provided the sign shall not be placed within the public right of way and the sign shall not exceed twelve (12) square feet in total size.
 - 4. The vendor shall acquire permission from the property owner prior to any temporary use on the property.
 - 5. Produce stands shall conform to the requirements set forth in Section 301.8P(3).
3. **General Regulations.** The following regulations shall apply to all temporary uses:
- A. Permitted Zones: A temporary sales use is authorized for consistent uses permitted in each respective non-residential zoning district subject to the requirements of this chapter and all other federal, state and local ordinances and regulations.
 - B. No temporary use shall exceed a period of more than six (6) months of a twelve (12) month period, unless otherwise specified by the Administrative Official.
 - C. All temporary structures shall conform to the zoning setback requirements.
 - D. The proposed temporary use shall not affect the driveway access or traffic circulation on the property.
 - E. The applicant shall provide, as determined by the Administrative Official, adequate facilities for disposal of trash and waste, e.g. grease, associated with the temporary use.
 - F. Permanent sanitary facilities located within an adjacent building shall be made available to all employees of the activity during its operational hours, as approved by the Administrative Official, in concurrence with the county health department, unless stipulated otherwise in this chapter.
 - G. Demonstrate compliance with federal, state and local law.

4. **Temporary Use Regulations.** A permit may be issued for temporary uses when the following criteria are met:

A. Permitted Temporary Uses.

1. Produce stands that do not meet the qualifications set forth in Section 301.8P(2).
2. Garden Centers.
 - i. Maximum Square Footage. Site-by-site basis.
 - ii. Restrictions on Merchandise and Products. This use is limited to the display of green goods, i.e., plants, and associated garden products determined to be consistent with the intent of a garden center (may be extended to the sale of Christmas trees), with the approval of the Administrative Official.
 - iii. Safety Standards. In order to promote the safety of the patrons of these facilities, the following shall be required.
 - a. All sales areas shall be separated from vehicular uses by the placement of a fence or barrier acceptable to the Administrative Official to prevent pedestrian and vehicular conflicts.
 - b. Temporary drive aisles shall be maintained at a minimum of twelve (12) feet in width for one-way traffic and twenty-four (24) feet in width for two-way traffic. Barriers, fencing, or some other physical markers shall clearly inform drivers at the end of the parking area and the start of the drive aisle. A clear line of sight shall be maintained at the entrance and exit of the temporary drive aisles.
 - c. Vehicle loading areas shall be located in an area that minimizes pedestrian and vehicle conflict and provides for the safe loading of merchandise and vehicles access to and from the traffic lanes to the loading area, preferably without backing movements.
3. Food/Beverage Stands.
 - i. Maximum Square Footage. Three hundred sixty (360) square feet.
 - ii. Health Standards and Licensing. The applicant must obtain licensing, liquor permits, certificates of inspection, or other documentation necessary to comply with all applicable requirements of the state, county, or municipality regarding health standards:
 - a. Water Service. The structure used for dispensing of food and beverage shall provide self-contained hot

- and cold running water with appropriate holding facilities of wastewater.
- b. Wastewater Disposal. Any wastewater shall be collected and disposed in a manner acceptable to the City and shall be explained in the application for a permit.
 - iii. The site area shall be cleaned of debris, temporary structures and any other objects associated with the temporary use within three (3) days after the termination of sales.
 - iv. All signage associated with temporary uses shall comply with the regulations of Chapter 305 (Sign Regulations) of the City of Waukee Code of Ordinances.
 - v. The number of additional parking spaces required and the location of such shall be determined by the Administrative Official. The maximum number of permanent parking spaces allowed to be used for operation of an extended use shall not exceed twenty percent (20%) of the parking on a site plan that was approved by the City to be counted toward the allowable size of the activity or twenty percent (20%) of the site area, whichever is more restrictive.
 - vi. Proof of ownership or a signed letter from either the property owner or their authorized representative, for the property on which the activity is to take place, shall be presented at the time the temporary use permit is requested.
 - vii. A plan of the layout of the proposed temporary use shall be submitted to the Development Services Department with the application, to be reviewed and approved by the Administrative Official. The layout shall identify the following:
 - a. The area on the site proposed to be utilized as part of the temporary use and associated sales area.
 - b. Proposed modifications to the traffic patterns and methods proposed to notify patrons and identify the temporary traffic pattern changes, i.e., signage, traffic cones, fencing and barriers, etc.
 - c. Proposed vehicle loading zone.
 - d. Location of electrical connection and water connection, if applicable.

5. **Other Temporary Uses:** For any other temporary use, for the sale of goods and services that has not been addressed previously in this chapter, a permit may be issued when the following criteria are met:
 - A. All other temporary uses shall conform to the requirements set forth in Sections 301.8P(4)(3)(iii) through 301.8P(4)(3)(vii).
 - B. Temporary Uses related to the sale of combustible materials shall not be located closer than 100 feet from the nearest permanent structure.
 - C. All applicants shall be responsible for submitting a site plan following the requirements set forth in Chapter 304 Site Plan Requirements of the Waukeg Code of Ordinances. Such site plan shall require approval by the City Council.
 - D. Maximum Space: Three hundred sixty (360) square feet.
 - E. Comply with all other requirements of federal, state and local law.

6. **Violations and Penalties.** The operation of a temporary use is a privilege allowed by this Chapter. A Temporary Use Permit may be revoked and terminated at any time by order of the Administrative Official, Fire Chief, Police Chief, Building Official or their designees if the temporary use is deemed as being a life safety hazard towards pedestrians, vehicles or property, or if the temporary use fails to comply with the terms of the permit or other City Ordinances.

May 9, 2011 – Ordinance 2692
April 3, 2017 – Ordinance 2838
May 30, 2017 – Ordinance 2845

Q. Solar Energy Systems.

1. **Purpose.** The purpose of this section is to balance the need for clean, renewable energy resources and the necessity to protect the public health, safety and welfare of the community. The city finds these regulations are necessary to ensure that solar energy systems are appropriately designed, sited and installed.

2. **Definitions.**
 - A. **Collector Panel:** An equipment assembly used for gathering, concentrating or absorbing solar energy as useful thermal energy or to generate electric energy.
 - B. **Height, Total Building Mounted System:** The height above the roof surface measured perpendicular to the roof specific to the installation on a sloped roof or the height above the roof surface specific to the installation on a flat roof.

- C. **Height, Total Ground Mounted System:** The height above grade of the system from the highest point, including the supporting structure, related equipment and the collector panels. Adjustable angle systems will be measured from the highest point when the system is at its maximum vertical extension.
- D. **Large Solar Energy System (LSES):** A solar energy system which has a nameplate rated capacity of over fifteen (15) kilowatts in electrical energy or fifty (50) KBTU of thermal energy for nonsingle-family residential uses and districts and which is incidental and subordinate to a principal use on the same parcel. A system is considered an LSES only if it supplies electrical power or thermal energy solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on site use may be used by the utility company in accordance with section 199, chapter 15.11(5) of the Iowa administrative code, as amended from time to time.
- E. **Off Grid:** An electrical system that is not connected to a utility distribution grid.
- F. **Small Solar Energy System (SSES):** A solar energy system which has a nameplate rated capacity of up to fifteen (15) kilowatts in electrical energy or fifty (50) KBTU of thermal energy for residential uses and districts and which is incidental and subordinate to a principal use on the same parcel. A system is considered an SSES only if it supplies electrical power or thermal energy solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on site use may be used by the utility company in accordance with section 199, chapter 15.11(5) of the Iowa administrative code, as amended from time to time.
- G. **Solar Access:** A property owner's right to have sunlight shine on his land.
- H. **Solar Energy:** Radiant energy received from the sun at wavelengths suitable for heat transfer, photosynthetic use or photovoltaic use.
- I. **Solar Energy System, Building Integrated:** A solar photovoltaic system that is constructed as an integral part of a principal or accessory building and where the collector component maintains a uniform profile or surface with the building's vertical walls, window openings, and roofing. Such a system is used in lieu of an architectural or structural component of the building. A building integrated system may occur within vertical facades, replacing glazing or other facade material; into semitransparent skylight systems; into roofing systems, replacing traditional roofing materials; or other building or structure envelope systems. To be considered a building integrated solar energy system, the appearance of the collector components must be consistent with the surrounding materials.

- J. **Solar Energy System, Building Mounted:** A solar energy system which is securely fastened to any portion of a building roof, whether attached directly to the principal or accessory building.
 - K. **Solar Energy System, Ground Mounted:** A solar energy system which is not located on a building and is ground mounted.
 - L. **Solar Energy System (SES):** An aggregation of parts including the base, supporting structure, photovoltaic or solar thermal panels, inverters and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert radiant energy from the sun into mechanical or electrical energy.
 - M. **Utility Scale Solar Energy System:** A solar energy system which supplies electrical power or thermal energy solely for use by off site consumers.
3. **General Regulations.** A solar energy system (SES) shall only be allowed as an accessory use to a permitted principal use as follows:
- A. A building integrated system.
 - B. A building mounted system attached to the roof of an accessory or primary structure.
 - C. A ground mounted system as a detached accessory structure to a primary structure shall only be allowed on property zoned commercial or industrial with a minimum lot size of two (2) acres.
 - D. Large solar energy systems (LSES) shall only be allowed on property zoned industrial.
 - E. Utility scale solar energy systems are not allowed.
4. **Permit Required:** It shall be unlawful to construct, erect, install, alter or locate any solar energy system (SES) within the city of Waukee, unless approved with:
- A. Building permit in A-1, R-1 and R-2 zoning districts.
 - B. Site plan, major or minor modification to a site plan permit for all other zoning districts.
 - C. The owner/operator of the SES must also obtain any other permits required by other federal, state and local agencies/departments prior to erecting the system.

5. **Installation:** Installation must be done according to manufacturer's recommendations. All work must be completed according to the applicable building, fire and electric codes. All electrical components must meet code recognized test standards.
6. **Engineer Certification:** Applications for any SES shall be accompanied by standard drawings of the receiving structure if newly constructed, including the supporting frame and footings. For systems to be mounted on existing buildings, an engineering analysis showing sufficient structural capacity of the receiving structure to support the SES per the applicable code regulations, certified by an Iowa licensed professional engineer shall be submitted.
7. **Color:** The SES shall be a neutral color. All surfaces shall be nonreflective to minimize glare that could affect adjacent or nearby properties. Measures to minimize nuisance glare may be required including modifying the surface material, placement or orientation of the system, and if necessary, adding screening to block glare.
8. **Lighting:** No lighting other than required safety lights or indicators shall be installed on the SES.
9. **Signage:** No advertising or signage other than required safety signage and equipment labels shall be permitted on the SES.
10. **Maintenance:** Facilities shall be well maintained in an operational condition that poses no potential safety hazard. Should the SES fall into disrepair and be in such dilapidated condition that it poses a safety hazard or would be considered generally offensive to the senses of the general public, the SES may be deemed a public nuisance and may be abated in accordance with chapter 401 "Property Maintenance", of this code.
11. **Displacement of Parking Prohibited:** The location of the SES shall not result in the net loss of required parking as specified in section 301.27 of this title.
12. **Utility Notification:** No SES that generates electricity shall be installed until evidence has been given that the utility company has been informed of and is in agreement with the customer's intent to install an interconnected customer owned generator. Off grid systems shall be exempt from this requirement.
13. **Interconnection:** The SES, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa utilities board.

14. **Restriction On Use Of Energy Generated:** An SES shall be used exclusively to supply electrical power or thermal energy for on site consumption, except that excess electrical power generated by the SES and not presently needed for on site use may be used by the utility company in accordance with section 199, chapter 15.11(5) of the Iowa administrative code.
15. **Shutoff:** A clearly marked and easily accessible shutoff for any SES that generates electricity will be required as determined by the fire department.
16. **Electromagnetic Interference:** All SESs shall be designed and constructed so as not to cause radio and television interference. If it is determined that the SES is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the appropriate city authority. A permit granting an SES may be revoked if electromagnetic interference from the SES becomes evident.
17. **Solar Access Easements:** The enactment of this section does not constitute the granting of an easement by the city. The owner/operator may need to acquire covenants, easements, or similar documentation to assure sufficient solar exposure to operate the SES unless adequate accessibility to the sun is provided by the site. Such covenants, easements, or similar documentation is the sole responsibility of the owner/operator. Should the owner/operator pursue a solar access easement, the extent of the solar access should be defined and the easement document executed in compliance with the regulations contained in chapter 564A (access to solar energy) of the Iowa Code.
18. **Compliance With National Electric Code:** Applications for SESs shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the national electrical code.
19. **Removal:** If the SES remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned. The owner/operator shall remove the abandoned system at their expense. Removal of the system includes the entire structure, collector panels and related equipment from the property excluding foundations. Should the owner/operator fail to remove the system, the SES will be considered a public nuisance and will be abated in accordance with chapter 401 "Property Maintenance", of this code.
20. **Screening:** SESs that are visible from the public thoroughfare or adjacent properties will require screening in accordance to regulations for screening of

mechanical units noted in chapter 304, "Site and Building Development Standards" of this code. The need for and type of screening to be used shall be identified as part of the building permit, major or minor modification to a site plan or site plan permit submittal.

21. **Nonconforming Systems:** An SES that has been installed on or before the effective date of this section and is in active use and does not comply with any or all of the provisions of this section shall be considered a legal nonconforming structure and will be regulated by the provisions noted in section 301.07 "Nonconforming Use", of this title.

22. **Unsafe Condition:** Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition any SES or associated building or structure, or part thereof declared to be unsafe by the appropriate authority.

23. **Bulk Regulations:**

A. Location:

1. Ground Mounted SES:

- i. No part of an SES shall be located within or over drainage, utility or other established easements, or on or over property lines.
- ii. The SES shall be located in accordance to the regulations for detached accessory structures in this chapter or not less than one foot (1') from the property line for every one foot (1') of the system height measured at its maximum height, whichever is most restrictive.
- iii. An LSES cannot be located in the front yard setback.
- iv. An SES shall not be located in any required buffer.
- v. The setback from underground electric distribution lines shall be at least five feet (5').
- vi. No SES shall be located which may obstruct vision between a height of thirty inches (30") and ten feet (10') on any corner lot within a vision triangle of twenty five feet (25') formed by intersecting street right of way lines.

2. Building mounted SES:
 - i. The solar energy system shall be set back not less than one foot (1') from the exterior perimeter of the roof for every one foot (1') the system extends above the parapet wall or roof surface.
 - ii. Should the solar energy system be mounted on an existing structure that does not conform to current setback requirements, the solar energy system shall be installed to meet the current setback requirements applicable to the receiving structure.
 - iii. Shall be designed to minimize their visual presence to surrounding properties and public thoroughfares. Panel arrangement shall take in account the proportion of the roof surface and place the panels in a consistent manner without gaps unless necessary to accommodate vents, skylights or equipment.
 - iv. Access pathways for the SES shall be provided in accordance to all applicable building, fire and safety codes.
 - v. Shall be located in such a manner that fall protection railings are not required or are not visible from the public thoroughfare.
3. Building integrated SES:
 - i. No setback required.
 - ii. Access pathways for the SES shall be provided in accordance to all applicable building, fire and safety codes.
 - iii. Shall be located in such a manner that fall protection railings are not required or are not visible from the public thoroughfare.
4. No SES shall be constructed within twenty feet (20') laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops).

B. Height:

1. Ground Mounted SES:
 - i. The maximum height of the SES shall not exceed twenty feet (20') in height as measured from existing grade.
2. Building mounted SES:
 - i. The collector panel surface and mounting system shall not extend higher than eighteen inches (18") above the roof surface of a sloped roof.
 - ii. The collector panel surface and mounting system shall not extend higher than seven feet (7') above the roof surface of a flat roof.

3. Building integrated SES:
 - i. The collector panel shall maintain a uniform profile or surface with the building's vertical walls, window openings, and roofing.

C. Size:

1. Size of the SES is calculated by measuring the total surface area of the collector panels for the system.
2. Ground mounted SES:
 - i. The SES is restricted in size to no more than fifty percent (50%) of the area of the primary structure(s) footprint.
 - ii. The maximum length of an individual ground mounted SES shall be restricted to one hundred twenty five feet (125').
3. Building mounted SES: System size will be determined by the available roof area subject to the installation minus the required setbacks or access pathways.
4. Building integrated SES: System size will be determined by the available building surface area subject to the installation minus the required access pathways.
5. In no case shall an SSES exceed the nameplate rated capacity of fifteen (15) kilowatts or fifty (50) KBTU.

24. **Application Required:** Application for an SES shall be made on forms provided by the city of Waukee. No action may be taken regarding requests for SESs until completed applications have been filed and fees paid.

April 16, 2018 – Ordinance 2882