



STAFF REPORT

To: Summit County Council
From: Ray Milliner, Maddy McDonough, County Planners
Date of Meeting: January 19, 2022
Type of Item: Code Amendment – 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 and approve the attached Ordinance per the findings of fact, and conclusions of law in this staff report.

Proposal

The purpose of the amendment is to create regulations for Solar Energy Systems 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, July 28, and October 13, 2021, and provided staff with direction. On January 12, 2022, Council reviewed an updated draft and provided additional comments. Staff made the requested changes and is now asking that the Council further review the document and approve the attached ordinance.

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 energy 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 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. The Summit County Council conducted public hearings on April 21 and July 28, 2021.
6. 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.
7. 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 _____, 2022.

ATTEST:

SUMMIT COUNTY COUNCIL

Evelyn Furst
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

1. Requirements for Solar Energy Systems:

The parcel or lot must be located within a zoning district that lists this system as an allowed, conditional, or low impact use. Solar Energy Systems shall comply with the following:

A. Building Integrated Solar Energy System:

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

B. Roof Mounted Solar Energy System:

1. 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.
2. All Roof Mounted Solar Energy Systems shall comply with the height limitations in the zoning district in which they are located.
 - **EXCEPTION:** On a flat-roofed structure, solar panels may extend up to five (5) feet above the zone height, but no more than ten feet (10') above the roof surface.

C. Ground Mounted Solar Energy System:

1. All Ground Mounted Solar Energy Systems shall be designed and located to ensure solar access without reliance on adjacent properties.
2. All Solar Area utility lines shall be placed underground to the extent feasible.

D. Large Scale Ground Mounted Solar Energy System:

1. All Large Scale Ground Mounted Solar Energy Systems shall be designed and located to ensure solar access without reliance on adjacent properties.
2. All Solar Area utility lines shall be placed underground to the extent feasible.
3. Vehicular circulation shall be designed to meet minimum Engineering standards for impervious materials and soil compaction.
4. Systems should be designed, oriented, and constructed to minimize impacts on adjacent properties and the environment. When reviewing an application, the land use authority shall consider the following in addition to §11-4-7:
 - a. Visual impacts, including the impacts of glare from the proposed system;
 - b. Compliance with §11-2 Development Evaluation Standards and §11-6 General Regulations including Infrastructure Standards;
 - c. Wildlife Corridors/habitat preservation; and
 - d. Wildfire risk.
5. The applicant shall submit a decommissioning plan for review by the Land Use Authority. The plan shall include the following:
 - a. The manner in which the equipment will be removed;
 - b. The manner in which the site will be restored; and
 - c. How long the decommission process will take.
6. Upon cessation of electricity generation on a continuous basis for twelve (12) months, the Community Development Director or designee may notify and instruct the owner and/or operator to remove the abandoned solar energy system. The notice shall provide a reasonable timeline for removal of the structure.

- a. The owner and/or operator must provide notice to the Summit County Community Development Director if there is cessation of electrical production for twelve (12) months or more.
- b. The owner and/or operator must respond to a request for reporting by providing reasonable proof that electricity is being generated by the Solar Energy System in question.

11-6-22: CHART OF ALLOWED AND PERMITTED USES

Permitted Uses	R-2.5	AG-5	AG-10	AG-20	AG-40	AG-80	CA	C	LI	I	Additional Reference
Building Integrated Solar Energy System	A	A	A	A	A	A	A	A	A	A	11-6-22
Ground Mounted Solar Energy System	L	L	L	L	L	L	L	A	A	A	11-4-8, 11-6-22
Ground Mounted Solar Energy System, Large Scale		C	C	C	C	C		C	C	C	11-4-7, 11-6-22
Roof Mounted Solar Energy System	A	A	A	A	A	A	A	A	A	A	11-6-22

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.

GROUND MOUNTED SOLAR ENERGY SYSTEM: 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.

GROUND MOUNTED SOLAR ENERGY SYSTEM, LARGE-SCALE: A Ground Mounted Solar Energy System in which the Solar Area is larger than 4,000 square feet.

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

SOLAR AREA: Total projected area of the Solar Energy System, including space between panels.