

# **SOLAR ENERGY SYSTEMS ORDINANCE**

## **POCAHONTAS COUNTY ORDINANCE**

### **SECTION 1 - STATEMENT OF INTENT**

The purpose of this Section is to facilitate the construction, installation, and operation of Solar Energy Systems (SES) in Pocahontas County, in a manner that promotes economic development, protects property values, and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, conservation lands, and other sensitive lands.

### **SECTION 2 - DEFINITIONS**

- A. **PERSONAL SOLAR ENERGY SYSTEM:** A Solar Energy System that generates electricity from solar energy primarily for use on the same site or the same land use with which the system is physically associated.
- B. **SOLAR ENERGY SYSTEMS, UTILITY SCALE:** A Solar Energy System that generates electricity from solar energy primarily for sale to an electric utility or other third-party commercial or industrial user.

### **SECTION 3 - PERSONAL SOLAR ENERGY SYSTEM (PSES)**

#### **A. PURPOSE AND INTENT**

These regulations provide uniform and comprehensive standards for the installation and the use of PSES for on-site home, farm and small commercial use that are used primarily to reduce on-site consumption of utility power. The intent of these regulations is to protect the public health, safety and community welfare without unduly restricting the development of PSES.

#### **B. ACCESSORY USE**

PSES shall be considered an accessory use to a principal permitted use or an approved conditional use in any zoning district.

#### **C. SPECIAL REQUIREMENTS**

PSES shall be subject to the requirements included in this Section:

- (1) **Ground Mounted PSES height.** Shall not be greater than fifteen (15) feet at maximum tilt of the solar panel(s) in any zoning district.

- (2) Structure Mounted PSES height. Shall not be greater than the allowable height of any structure within the zoning district in which the PSES is to be installed.
- (3) Setbacks. Three hundred (300) feet from a residence that is not a part of the PSES area. Landowners may sign a waiver consenting to placement within the minimum setback, in which case the solar energy system must instead comply with the principal structure setbacks in the zoning district in which the system is located. At the discretion of the Board of Adjustment, additional setback may be required as condition of approval.
- (4) Building Codes. All county, state and national construction codes shall be followed.
- (5) Use. The PSES shall provide electricity for on-site use by the owner. This does not prohibit an owner from making excess power available for net metering.
- (6) Approved Solar Components. PSES components must have an Underwriters Laboratory (UL) listing or approved equivalent.

**D. BUILDING PERMIT:** Before a building permit is issued, the following shall be submitted to the Pocahontas County Zoning Administrator for review:

- (1) Site Plan Showing:
  - a. Address, email address, and phone number of the property owner;
  - b. Parcel lines;
  - c. All existing structures with heights clearly marked;
  - d. Sanitary infrastructure (i.e. septic field);
  - e. Setback measurements;
  - f. Easements present on the property, including those for utilities;
  - g. Septic field tile location;
  - h. Floodplain location, if applicable;
  - i. Proposed Location of all solar panels and associated equipment; and
  - j. Proposed Location of the electrical disconnect for the PSES.
- (2) Evidence that the local electric utility has been informed of the customer's intent to install a customer-owned solar energy system.
- (3) Evidence that the site plan has been submitted to the local fire protection district.
- (4) Evidence that all contact information for site has been provided to Pocahontas County Emergency Management and 911 service departments.
- (5) The building permit fee for PSES shall be \$100.00

## **SECTION 4 – SOLAR ENERGY SYSTEMS, UTILITY SCALE SESUS)**

### **A. PURPOSE AND INTENT**

These regulations provide uniform and comprehensive standards for the installation and use of Solar Energy Systems, Utility Scale (SESUS). (SESUS) may include solar panels, solar support structure, inverter/transformers, energy storage technologies, wiring, and other equipment necessary for the generation, storage and delivery of electricity. The intent of these regulations is to protect the public health, safety, and community welfare while allowing development of utility-scale solar energy resources for utility, commercial and industrial purposes

### **B. CONDITIONAL USE PERMIT (CUP)**

(SESUS) shall require a Conditional Use Permit within the Agricultural-Conservation District (AC), the Light Industrial District (LI) and the Heavy Industrial District (HI). This use is prohibited in all other Zoning Districts in Pocahontas County. This use shall be subject to the procedures and standards included in the Pocahontas County Zoning regulations. Concentrating solar power systems are prohibited.

### **C. SPECIAL REQUIREMENTS**

(SESUS) are subject to the following requirements:

(1) Use Area.

- a. The combined horizontal surface area of all structures contained within a (SESUS), excluding transmission lines and collection lines, shall not exceed one thousand (1,000) acres in size.
- b. The total combined horizontal surface area of all structures contained within all (SESUS) developments in Pocahontas County shall not exceed seven thousand (7,000) acres.

(2) Height. A solar panel shall be no less than one (1) foot (twelve inches) off the ground. A solar panel shall not exceed twenty (20) feet in height above grade at maximum tilt of the solar panel(s).

(3) Setbacks. All applicants shall obtain all required state and federal permits prior to construction activities. Above-ground structures including fences in a (SESUS) shall adhere to the following minimum setbacks; provided, however, that participating and non-participating landowners may sign a waiver consenting to placement within the minimum setback, in which case the solar energy system must instead comply with the principal structure setbacks in the zoning district in which the system is located:

- a. Seventy-five (75) feet from property lines, except where the property lines nearest to the utility-scale solar energy system define and separate properties belonging to participating landowners.
- b. Three hundred (300) feet from habitable dwellings.

- c. One hundred twenty-five (125) feet from road right-of-way lines, including future right-of-way lines if known at the time of application.
- d. One hundred fifty (150) feet from wildlife management areas and state recreation areas.
- e. Two hundred fifty (250) feet from buildings.
- f. One hundred fifty (150) feet from cemeteries.
- g. All signed waivers by participating and non-participating landowners consenting to placement within the minimum setback shall be placed on file with the Zoning Administrator's office.

(4) Permitting Process. The applicant shall go through the following process for Conditional Use Permit Approval.

- a. Applicant shall meet with the Zoning Administrator and submit all required documents.
- b. Zoning Administrator will submit all documents to the Pocahontas County Department Approval Committee. Committee shall consist of two (2) members of the Pocahontas County Board of Supervisors and the Zoning Administrator along with the department head or the designated employee from the following departments: Pocahontas County Conservation, Pocahontas County Engineer/Secondary Roads, Pocahontas County Emergency Management, Pocahontas County 911. All identified departments must approve with signature that all requirements in this Ordinance pertaining to that department are met prior to moving on in the process. The Board of Supervisors' committee members shall review those documents specified in subsection d. of this section; however, final approval shall be in accordance with subsection d.
- c. Conditional Use Permit Application will be presented to the Pocahontas County Zoning Board of Adjustment for a public hearing and decision on the Conditional Use Permit.
- d. Pocahontas County Board of Supervisors shall consider a decommissioning plan, decommissioning agreement (including financial security), Public Roads Damage Avoidance and Mitigation Plan and related agreement. The (SESUS) may not proceed to construction until the Board of Supervisors has approved these plans and the Chairperson and the applicant have executed these agreements.
- e. The construction shall commence in accordance with the plans approved by the Zoning Board of Adjustment within five (5) years of approval. "Commencing Construction" is determined by disturbance of soil at project site, that is not part of a primary farming operation. Any portion of the development plan not started within five (5) years of permit issuance by the Zoning Administrator in accordance with plans approved by the Zoning Board of Adjustment shall not be installed until the development has been reauthorized. Reauthorization shall be through a new Conditional Use Permit application and shall be subject to the regulations in effect at the time reauthorization is requested.

i. Applicant may apply to the Pocahontas County Board of Adjustment for a two (2) year extension of time in which to start any portion of development plan. Applicant must show good cause for the delay. The fee for said application for extension shall be \$175.00.

(5) Community Information Open House.

- a. Prior to the submission of an application for a conditional use permit for a (SESUS), a community information open house shall be organized and hosted by the project developer or applicant. The purpose of the open house is outreach, with the intent of providing complete information to the community in an informal setting. The open house shall not be construed to be a local government meeting or a formal public hearing.
- b. The applicant shall notify the County Board of Supervisors, the Zoning Administrator, and all property owners within two (2) miles of the proposed (SESUS) at least twenty (20) days prior to the open house by regular mail.
- c. The open house shall be held on a Monday, Tuesday, Wednesday, or Thursday evening at an accessible, reasonable location in the county in relation to the project.
- d. The open house shall be arranged and hosted by the project developer, the applicant, or a qualified representative and shall at a minimum include a detailed explanation of the project, the site plan for the proposed project, anticipated construction schedule, Emergency Response Plan and Decommissioning Plan.
- e. The Zoning Administrator or his or her designee shall be present at the open house to monitor proceedings and provide guidance as needed.
- f. The applicant shall solicit and accept all comments, questions, and concerns of all attendees and respond to identified concerns, if possible, with reasonable practical means and methods of mitigating undue impact to the surrounding area.
- g. A report on the open house shall be submitted concurrent with the applicant's conditional use permit application. The report shall include the date, time, and location of the open house; a list of real property owners who were invited to the open house; and copies of any written comments received. This report may be used by the Board of Adjustment to establish conditions of approval for the conditional use permit.

(6) Security Fencing. Physical access to the utility-scale solar energy system shall be restricted by fencing or walls in accordance with the National Electrical Code. Razor wire is discouraged. All fencing or wall details shall be provided as part of a conditional use permit application and shall comply with all setback requirements specified in this ordinance. Emergency access information to the site shall be provided to the applicable emergency management personnel. Areas between right-of-way lines and security fencing may be used for any legitimate agricultural purpose. Row crop production, such as corn/soybean rotation, is encouraged.

(7) Advertising and Displays. A (SESUS) shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags banners, or similar materials.

(8) Agricultural Impact Mitigation Plan. The applicant shall submit a plan with the permit application detailing the mitigation strategy to support agricultural use of the land. The plan will be reviewed by the Zoning Administrator and shall include, but is not limited to:

- a. Results of a soil analysis conducted and assessed by a qualified professional to determine topsoil depths as well as identify any limitations for construction and mitigation that may require special consideration.
- b. General list of project components and construction timeline.
- c. Describe best practices and methods to be used during each stage of construction for protecting and preserving topsoil. Practices and methods should address, at minimum, avoidance of removal of topsoil. However, if removal of topsoil is necessary, applicant should plan for segregation, stockpiling, replacement during backfill and respreading, grading minimization, compaction prevention and decompaction of otherwise undisturbed topsoil impact by heavy equipment or storage of materials and wet weather conditions.
- d. Describe environmental monitoring that will be used during construction to ensure adherence to the best practices contained in the plan. The monitoring should be done by an environmental professional at the expense of the developer. The monitoring results should be submitted to the County every thirty (30) days during construction.
- e. For all ditches and tile drains owned and maintained by a drainage district, Application for Easement Through Drainage District Right-of-Way must be completed and submitted to the drainage district and easement granted by resolution by the trustees of the impacted drainage district. All work to cross or encroach upon drainage district facilities must be done in compliance with the most current version of Procedures and Conditions for Construction in Drainage District Right-of-Way on file with the County Auditor's Office.
- f. For all other drainage facilities not under drainage district control, describe the general procedures to be used for identification, avoidance and repair of any underground drainage tile lines located within the project site before, during and after construction.

(9) Soil Erosion and Sediment Control. The applicant shall conduct all roadwork and other site development work in compliance with a national pollutant discharge elimination system (NPDES) permit as required by Iowa Department of Natural Resources and comply with requirements as detailed by local jurisdictional authorities during the plan submittal. If subject to NPDES requirements, the applicant must submit the permit to the Zoning Administrator for review along with an erosion and sediment control plan before the "Commencement of Construction" which is determined by disturbance of soil at project site, not considered for a primary farming operation. The plan must include both general "best management practices" for temporary erosion and sediment control (both during and after construction) and permanent drainage and erosion control measures to prevent both damage to local roads/adjacent areas and sediment laden run-off into waterways.

(10) Vegetation Mitigation Plan.

- a. A Vegetation Mitigation Plan must be provided to the Zoning Administrator with the permit application. The Vegetation Mitigation Plan will be reviewed by the Pocahontas County Zoning Administrator.
- b. Ground under and around the solar array shall be planted with a perennial vegetated ground cover as identified in the Vegetation Mitigation Plan. The ground cover plan shall be developed in accordance with the following standards:
  - i. Avoid removal of topsoil to maximum extent possible during development and decommissioning unless part of a remediation effort.
  - ii. The area shall be planted and maintained, per the Vegetation Mitigation Plan, in perennial vegetation for the full operational life of the project to prevent erosion, manage runoff and build soil. The Vegetation Mitigation Plan must include management methods and schedules for how the vegetation will be managed on an annual basis, with the particular attention given to the establishment period of approximately three (3) years. The plan must include provisions for replacement of any required vegetation cover that fails to establish or dies during the life of the project.
  - iii. Plant materials for the ground cover area must not have been treated with synthetic insecticides, particularly neonicotinoids.
  - iv. The application and Vegetation Mitigation Plan shall include the proposed seed mix specifications and growth guidelines to follow
  - v. Seeding zones and their selected seed mixes should be clearly mapped on a site plan.
  - vi. Seed and/or planting mixes and maintenance practices should be consistent with recommendations made by qualified natural resource professionals, such as those from a state department of natural resources, county soil and water conservation services, or natural resource conservation service.
  - vii. Reporting to the County on ground cover management and maintenance activities shall be on an annual basis for a minimum of five (5) years from commercial operations after which point reduced frequency can be requested and approved at the discretion of the Zoning Administrator.
  - viii. At the discretion of the Zoning Administrator, other practices such as small-scale farming, bee keeping operations or grazing may be allowed in the ground cover area.

(15) Landscaping Buffer. To mitigate potential negative effects and reduce the visual impact of the (SESUS), a landscaping buffer may be installed and maintained during the life of the array operation as determined necessary by the Zoning Administrator. Determination of screening requirements will be made by the Zoning Administrator as part of the review of the

Conditional Use Permit and will be based on adjacent or nearby surrounding land uses and topography. Where the Zoning Administrator finds that a landscaping buffer is appropriate, landscaping shall be installed within a planting area around the portions of the site specific by the Zoning Administrator in accordance with the standards as of this subsection. All applications for which this subsection applies shall submit a plan for review and approval. The landscaping buffer shall use trees, shrubs, grasses and forbs that are native to Iowa or where appropriate may include naturalized and non-invasive species or a combination thereof to provide a vegetation screen in all required areas.

- (16) **Lighting.** If lighting is provided for the (SESUS), lighting shall be shielded and downcast such that the light does not project directly onto the adjacent parcels.
- (17) **Noise.** Noise levels caused by the (SESUS) measured at the residence(s) shall not exceed fifty (50) decibels (A-weighted) when located adjacent to an existing residence or residential district.
- (18) **Installation and Design.** The (SESUS) shall be designed and located to minimize glare towards any inhabited buildings on adjacent properties.
- (19) **Utility Connections.** Reasonable efforts shall be made to place all project collection lines within the solar installation underground, depending on appropriate soil conditions, shape and topography of the site, distance to the connection, or other conditions or requirements. High-voltage lines between the (SESUS) and substations may be above ground.
- (20) **Outdoor Storage.** Only the outdoor storage of materials vehicles, and equipment that directly support the operation and maintenance of the (SESUS) shall be allowed.
- (21) **Endangered Species and Wetlands.** Applicant shall consult with the Iowa Department of Natural Resources and provide verification to the Zoning Administrator.
- (22) **Waste.** All solid wastes, whether generated from supplies, equipment parts, packaging, operation, grazed animals, farming operation or maintenance of the (SESUS) shall be removed from the site and disposed of in an appropriate manner. All hazardous waste generated by the operation shall be removed from the site immediately and disposed of in a manner consistent with all local, state and federal requirements.
- (23) **Weed Control.** Applicant must present an acceptable weed/grass control plan for property outside of the fenced area for the entire project. The operating company during the operation of the approved (SESUS) must maintain the fence and adhere to a weed control plan. The plan must be approved by Pocahontas County Zoning Administrator, Pocahontas County Engineer and Pocahontas County Conservation Department.
- (24) **Maintenance, Repair, or Replacement of a Facility.** Maintenance shall include, but not limited to painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to emergency response officials. Any retrofit, replacement or refurbishment of equipment shall adhere to all applicable local, state and federal requirements. Any discarded materials or construction debris will be promptly removed in a timely manner. Said debris shall remain on the property no longer sixty (60) days.

(25) Cleaning Chemicals and Solvents. During operation of the (SESUS), all chemicals or solvents used to clean photovoltaic panels shall be low in volatile organic compounds and the operator shall use recyclable or biodegradable products to the extent possible. Any on-site storage of chemicals or solvents shall be referenced on the site plan.

(26) Storm Water Management. Prior to receiving a building permit, for the purposes of pollutant removal, stormwater and runoff management, flood reduction and associated impacts, the applicant shall provide a detailed storm water management plan with analysis of pre and post development stormwater runoff rates for review by local jurisdictional authorities.

(27) Aviation Protection. Applicant must complete and provide with the application the results of a Solar Glare Hazard Analysis Tool or most recent version adopted by the FAA. Applicant must provide evidence of notice and no response and/or non-objection from FAA.

(28) Administration and Enforcement. The Zoning Administrator and any necessary personnel may enter any property for which a Conditional Use or Building Permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met as specified by statute, ordinance, and code. Failure to provide access by appointment within 48 hours of request shall be deemed a violation of this ordinance.

(29) Emergency Response Plan. The applicant shall provide a preliminary emergency response plan, which shall be submitted concurrent with the conditional use permit application. The preliminary emergency response plan shall include the following information:

(30) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for the safe start-up following cessation of emergency conditions;

(31) Procedures for inspection and testing of associated alarms, interlocks, and controls; and Procedures to be followed in response to notifications from the (SESUS) or any of its components of potentially dangerous conditions, including procedures for shutting down equipment, summoning service and repair personnel, and providing notification to fire department personnel for potentially hazardous conditions.

(32) Copies of a final, site-specific, emergency response plan shall be given to the system owner, the local fire department, local emergency responders, and the Pocahontas County Emergency Management Commission prior to the construction of the (SESUS).

(33) Insurance. Evidence of general liability insurance coverage shall be submitted to the Zoning Administrator prior to the start of construction. The evidence of general liability insurance shall be in the form of a certificate of insurance satisfactory to the Zoning Administrator and shall show general liability insurance coverage for the installation and operation of the (SESUS) under a standard homeowner's or businessowner's insurance policy, separate and distinct from any requirements of a public utility.

**D. CERTIFICATION.** (SESUS) shall conform to applicable industry standards, including those from the Underwriters Laboratory (UL) and Federal Aviation Administration (FAA). All applicable county, state and national construction and electrical codes shall be followed.

**E. SAFETY:** All (SESUS) shall provide the following at all locked entrances:

- (1) A visible “High Voltage” warning sign
- (2) Name(s) and phone number(s) for the electric utility provider(s)
- (3) Name(s) and phone number(s) for the site operator(s)
- (4) The facility’s 911 address and GPS coordinates
- (5) The site operator will coordinate with the local fire department, Emergency Management Agency and 911 Director to provide training on an annual basis for the first five (5) years the project is complete and in operation. Said training will commence within six (6) months prior to the completion of the project. After that, offered on an annual basis for the life of the project. All emergency responding agencies will sign off that said training was completed or offered.

**F. REPOWERING:** Proposals to replace more than twenty-five percent (25%) of the panels in a facility within a twelve (12) month period shall be required to submit a plan for review and approval with all associated costs assigned to the Applicant and/or the property owner(s); except that replacements due to extreme weather events or technological improvements shall not require a new plan submittal.

**G. ROADS:** The applicants, owners and their contractors shall avoid damaging public roads to the greatest practicable extent and shall be responsible for repair of damage to public roads. A Public Roads Damage Avoidance and Mitigation Plan shall be in accordance with the following standards and approved by the Board of Supervisors before the applicant commences construction:

- (1) Identification of Potential Roads Usage. The applicant shall identify, in consultation with the Pocahontas County Engineer, all state and local public roads to be used within Pocahontas County to transport equipment, parts and material for construction, operation or maintenance of the solar energy system and related components.
- (2) Documentation of Road Conditions. Prior to construction, decommissioning or implementation of a repowering plan a third-party consultant, agreed upon by the applicant then the Pocahontas County Engineer, shall document the current conditions of the roads identified for use, with all associated costs paid for by the applicant or the owners of the facility. The selected third-party consultant shall document road conditions again thirty (30) days after the construction is complete or as weather permits with physical documents as well as video documentation.

- (3) Road Preparation and Damage. Any road preparation or maintenance necessitated by the (SESUS) as identified by the selected third-party consultant shall be promptly completed at the applicant's expense. Any damage caused by the applicant, owner of the facility or its contractors during construction, decommissioning, or the implementation of a repowering plan shall promptly be repaired at the applicant or the project owner's expense and to the reasonable satisfaction of the County Engineer based on applicable standards and code.
- (4) Applicant shall demonstrate appropriate financial assurance to ensure the repair of the damaged roads. At the direction of the Board of Supervisors, the applicant or the owners of the facility shall also be required to provide a financial surety instrument or bond to cover all costs of potential damage to roads at the time of permitting consideration.

**H. ABANDONMENT:** A (SESUS) will be deemed abandoned: If the owner or operator of the utility-scale solar energy system notifies Pocahontas County of its intention to discontinue use of the system, in which case the system will be deemed abandoned on the date of the system's discontinued use; or If use of the system has been discontinued for a period of one hundred eighty (180) consecutive days.

- (1) Determination of the date of abandonment shall be made by the Zoning Administrator.
- (2) Upon such abandonment, the owner of the (SESUS) shall have two hundred seventy (270) days within which either to reactivate the use of the (SESUS) or to remove all above-ground and below-ground system facilities and structures to a level of not less than four (4) feet below the surface (the "decommissioning period").
- (3) The owner of a (SESUS) may apply to the Zoning Administrator for an extension of the decommissioning period for up to ninety (90) days to complete either the reactivation or the removal of the system as required, such an extension may be granted or denied at the discretion of the Zoning Administrator.
- (4) If the owner of a (SESUS) fails during the decommissioning period either to reactivate the use of the system or to remove it, Pocahontas County may draw on the financial surety provided pursuant to subsection I.(7) to complete the decommissioning and reclamation plan. If the financial surety has been drawn down and the decommission and reclamation plan is still not fully executed, Pocahontas County may remove the remaining system and assess the costs against the owner in the same manner as a property tax, pursuant to Iowa Code section 331.384. If Pocahontas County is unable to assess the remaining costs against the owner of a (SESUS), the landowner at the time shall be held liable only for costs not covered by the decommissioning bond or in the manner pursuant to Iowa Code section 331.384, and only for costs directly associated with the landowners' property.
- (5) As an alternative, the owner may prepare and submit a plan for the "banking" of the system for future reactivation and use. Said plan must be submitted to the Zoning Administrator within one hundred eighty (180) days of the abandonment of the system and shall be updated and submitted every one hundred eighty (180) days thereafter for a maximum of two (2) years, at which time the system must be reactivated or removed.

**I. DECOMMISSIONING AND RECLAMATION PLAN:** The applicant shall submit a Decommissioning and Reclamation Plan to the Pocahontas County Zoning Administrator with the conditional use permit application. The Zoning Administrator shall review the plan for completeness and refer it to the Pocahontas County Board of Adjustment for review in conjunction with the conditional use permit and the Pocahontas County Board of Supervisors for final consideration and approval prior to the applicant commencing construction. The plan shall include:

- (1) A description of the life of the (SESUS); the anticipated manner which the project will be decommissioned, including any plans to recycle components; the anticipated site restoration actions; the estimated decommissioning costs in current dollars and the method for ensuring that funds will be available for decommissioning and restoration.
- (2) Estimates for the total cost for decommissioning at the current value at site as determined by a Licensed Engineer agreed upon by the applicant and the County Engineer. Decommissioning costs shall take salvage value into account.
- (3) A description of the plan to remove the (SESUS) and restore the land to its previous use upon the end of the project's life, as stated in the Conditional Use Permit.
- (4) Provisions for the removal of structures, debris and associated equipment on the surface and to a level of not less than four (4) feet below the surface, and the timeline/sequence in which removal is expected to occur.
- (5) Provisions for the restoration of the soil, vegetation, and disturbed earth, which shall be graded and reseeded and /or the property may be returned to agricultural use. Avoidance of removal of topsoil is preferred. The mitigation plan shall include environmental monitoring at the cost of the developer to be used in returning the project area back to agricultural use. Environmental monitoring will include best practices to address at minimum invasive species prevention, erosion, sediment control and debris removal.
- (6) A provision that the terms of the Decommissioning and Reclamation Plan shall be binding upon the owner or operator and any of their successors, assigns or heirs and that the landowner has granted permission for access and easements of the property for decommissioning. Verification of the same must be stated in the lease and provided to the Pocahontas County Zoning Administrator.
- (7) Financial Surety. On the first day of operation, the applicant, facility owner or site operator shall provide a financial surety instrument to cover the cost of decommissioning in accordance with the following:
  - a. Decommissioning funds or financial surety shall be in an amount equal to the net cost for decommissioning the site, plus a ten percent (10%) contingency.
  - b. The financial security fund shall be maintained in the form of cash, certificate of deposit, performance bond, escrow account, surety bond, letter of credit, corporate guarantee or other form of financial assurance

acceptable to the Pocahontas County Board of Supervisors. Any document evidencing the maintenance of the financial surety shall include provisions for releasing the funds to the County in the event decommissioning is not completed in a timely manner.

- c. Financial security shall be maintained for the life of the project.
- d. Every five (5) years, the facility owner or operator shall retain an independent Licensed Engineer to re-estimate the total cost of decommissioning and attest that the value of the financial surety instrument is appropriate. This report shall be filed with the County Zoning Department and the Pocahontas County Auditor. The decommissioning funds shall match the re-estimated cost of decommissioning. Within ninety (90) days of filing the re-estimation report with the County, the facility owner or operator shall cause the fund balance of the financial surety instrument to be adjusted to ensure that it matches the re-estimated decommissioning costs. The applicant shall file the approved decommissioning agreement and roads agreement with Pocahontas County Recorder prior to commencing construction.
- e. Release of Financial Security. Financial security shall only be released by the Zoning Administrator after inspection that all conditions of the decommissioning plan have been met.

**J. INDEMNIFICATION AND LIABILITY:** The applicant, owner and/or operator of the (SESUS) project shall defend, indemnify, and hold harmless the County of Pocahontas and its officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever, including attorney's fees, without limitation, arising out of acts or omissions of the applicant, owner, and/or operator associated with the construction and/or operations of the Solar Energy System project.

**K. SEVERABILITY:** The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

**L. VIOLATIONS AND PENALTIES:** Each violation of this chapter or of any regulation, order or ruling promulgated hereunder shall constitute as a simple misdemeanor, and each day a violation continues to exist shall constitute as a separate offense.

**M. RELATED RULES AND REGULATIONS:** Each (SESUS) shall comply with all applicable local, state and federal requirements.

**N. CONDITIONAL USE PERMIT FEE(S) FOR SOLAR ENERGY SYSTEMS, UTILITY SCALE:** The Conditional Use Permit fee is \$2,000.00 plus \$100 per Megawatt (MW).

**EFFECTIVE DATE**

This ordinance shall become effective after its final passage and approval, and publication as required by law.

**ADOPTED AND PASSED** by the Board of Supervisors of the County of Pocahontas, Iowa

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Chairman

Seal of County

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Attest: County Auditor

Publication Date(s): \_\_\_\_\_

Date of 1<sup>st</sup> Reading: \_\_\_\_\_

Date of 2<sup>nd</sup> Reading: \_\_\_\_\_

Date of 3<sup>rd</sup> Reading: \_\_\_\_\_

Effective Date: \_\_\_\_\_