

AN ORDINANCE TO ADD STANDARDS AND REQUIREMENTS FOR SOLAR ENERGY SYSTEMS TO THE ZONING ORDINANCE OF THE TOWN OF LYNDON CODE

WHEREAS, solar energy systems are an increasingly viable renewable energy option; and

WHEREAS, there are three major categories of solar energy systems that include large-scale (100 megawatts or more), mid-scale (less than 100 megawatts but more than 30 kilowatts), and small-scale (30 kilowatts or less); and

WHEREAS, large-scale systems are primarily regulated by the Wisconsin Public Service Commission, while regulations for mid- and small-scale systems are primarily under the purview of local ordinances; and

WHEREAS, to promote the health, safety, prosperity, aesthetics, and general welfare of the Town, the Plan Commission has recommended certain revisions and additions to the Zoning Ordinance as detailed in Exhibit "A", attached to and made a part of this ordinance.


NOW, THEREFORE, the Town Board of the Town of Lyndon does amend its existing Zoning Ordinance to make the revisions and additions referenced above.

EFFECTIVE DATE: The herein revisions and additions to the Ordinance shall take effect immediately upon adoption and posting as provided by law.

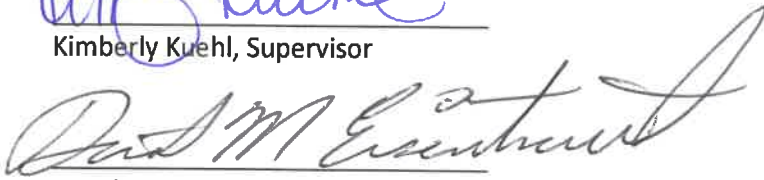
Adopted this 8th day of March, 2023.


The Town of Lyndon Board of Supervisors:


David Roll, Chairperson


Kimberly Kuehl, Supervisor


Daniel Mayer, Supervisor


David Eisentraut, Supervisor


Jennifer Wiskirchen, Supervisor

CERTIFICATE OF ADOPTION

This is to certify that the foregoing Ordinance was duly adopted by the Town Board of the Town of Lyndon on the 8 day of March, 2023.

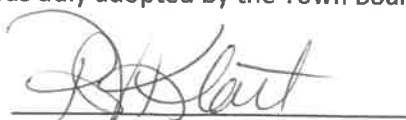

Rhonda Klatt, Clerk/Treasurer

EXHIBIT “A”

Add to **SECTION 9.20 DEFINITIONS**

Solar Energy System (SES):

A device, array of devices, or structural design feature used for the collection, storage, and/or distribution of solar energy for space heating or cooling, lighting, electric generation, or water heating. This ordinance categorizes a facility with an electrical generation capability of 100 MW (megawatts) or more as a large-scale SES; a facility with a capability of less than 100 MW but more than 30 kW (kilowatts) as a mid-scale SES; and a facility with a capability of 30 kW or less as a small-scale SES. A large- or mid-scale SES may encompass multiple, non-contiguous parcels, within different zoning districts, if owned or leased by a single developing entity. (This definition is not intended to include ground or wall mounted solar powered light fixtures, solar powered electric fences, or similar solar devices.)

Create **SECTION 9.28 GENERAL PROVISIONS**

A. Reimbursement of Costs:

Costs of any legal, engineering, or other professional fees incurred by the Town regarding a Conditional Use Application, Performance Standards, or any other standards related to the administration of this Ordinance shall be paid to the Town by the applicant before issuance of associated permits. A decision by the Town Board to decline to issue a permit, or to impose conditions that the applicant finds unacceptable, shall not excuse the applicant from its obligations under this subsection. Further, after the issuance of a permit, any such fees incurred by the Town for the purpose of verifying compliance with Ordinance standards shall likewise be reimbursed by the applicant or subsequent property owner within 60 days of notice by the Town.

Revise CHAPTER 10 Zoning Districts

A-1, A-1-RZ, A-1-S, A-PR, B-1, B-2, M-3, and M-4

Permitted Uses: Add “Solar energy systems, small-scale”

Conditional Uses: Add “Solar energy systems, large-scale” and “Solar energy systems, mid-scale”

A-2, A-2-HD, A-3, and A-4

Permitted Uses: Add “Solar energy systems, small-scale”

Conditional Uses: Add “Solar energy systems, mid-scale”

A-5, A-6, B-3, B-4, C-1, C-2, P-1, R-1, R-2, R-3, R-5, R-6, and PUD

Permitted Uses: Add “Solar energy systems, small-scale”

Conditional Uses: None

Note: SES not allowed at all in H-1 Historic Preservation District

Create SECTION 9.27 SOLAR ENERGY SYSTEMS (SES)

A. Applicability:

The standards in this Section apply only to mid-scale solar energy systems as described in subsection C below.

B. Purpose:

There are hereby established standards for certain solar energy systems that will provide for the construction and operation of said systems. All regulations contained herein are adopted to preserve and protect public health and safety.

C. Types of Solar Energy Systems and Permits Required:

1. Large-scale SES (100 MW or more): Must be approved by the Wisconsin Public Service Commission. Such systems are allowed only in the A-1, A-1-RZ, A-1-S, A-PR, B-1, B-2, M-3, and M-4 districts and require a building permit from the Town. A Sheboygan County Shoreland/Floodplain Zoning permit, if applicable, may also be required. The Town may require a conditional use permit and/or developer's agreement as long as no conditions, in the opinion of the SES developer, inhibit or preclude the project, per Section 196.491(3)(i), Wis. Stats.
2. Mid-scale SES (less than 100 MW but greater than 30 kW): Are subject to the conditional use permit conditions set forth in Section 9.24 of this Ordinance and the requirements set forth in subsection D below, the Town's building permit requirements, the County's applicable Shoreland/Floodplain requirements, and any other applicable state or federal requirements. Such systems are allowed by conditional use only in the A-1, A-1-RZ, A-1-S, A-PR, A-2, A-2-HD, A-3, A-4, B-1, B-2, M-3, and M-4 districts.
3. Small-scale SES (30 kW or less): Are considered to be accessory uses and are permitted uses in all districts except H-1. Such systems are allowed whether or not a principal structure exists on the parcel. Applicable permits from the Town are required, and a Sheboygan County Shoreland/Floodplain Zoning permit may also be required, if applicable.

D. Requirements for Mid-Scale Solar Energy Systems:

1. Any mid-scale SES hereafter established, altered, or enlarged shall be subject to the following requirements unless less restrictive requirements are specifically granted by the Plan Commission in the conditional use permit.
 - a. Location: No portion of a large- or mid-scale SES shall occupy any parcel that lies within one-quarter mile of the corporate boundary of the villages of Cascade or Waldo existing at the time of application for said SES, unless approved by the Town Board after receiving convincing evidence that said SES will not impede the planned growth of Cascade or Waldo.
 - b. Setbacks: Any portion of the SES shall not encroach within 20 feet of any property line, non-navigable waterway ordinary high-water mark, easement, well, or septic field. Setbacks from roadways are 75 feet from the center line of Town and County Roads, and 75 feet from the right-of-way on State Roads. The project design shall be such that aboveground project components (excluding fences and access roads) shall not be closer than 200 feet to any nonparticipating landowner residential structure.
 - c. Height restrictions: Ground mounted components of a SES shall not exceed 15 feet in height as measured at the apex when any tracker is at its maximum tilt in early morning or late evening. Roof-mounted components shall not exceed a zoning district's height limit by more than 5 feet.
 - d. Glare: The SES, including reflectors, shall be positioned so that glare does not create unsafe conditions for travelers or nuisances for neighboring properties.
 - e. Sound: The SES project's inverters, substations, motors, and other noise emitting equipment collectively shall not exceed the Public Service Commission mandated maximum nighttime sound level that is applicable to a 100 MW system or larger at the walls of the noise sensitive receptor, which shall include as a minimum the residence on any non-participating property. To ensure

- noise level estimates associated with facility design are conservative, a 5 dBA tonal penalty shall be included in any pre- or post-construction sound analysis.
- f. Construction hours: Hours of construction shall be between 6:00 a.m. and 7:00 p.m., Monday through Saturday, and between 10:00 a.m. and 7:00 p.m. on Sunday.
 - g. Installer: All SES shall be installed by a North American Board of Certified Energy Practitioners (NABCEP) certified solar installer or other person or entity qualified to perform such work.
 - h. Foundation: A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate.
 - i. Screening: A SES shall be appropriately buffered and screened from public view by the system owner or representative. Any structure or vegetation under the control of a neighboring property owner, however, that interferes with the function of a SES is considered to be a private nuisance per Section 844.22, Wis. Stats.
 - j. Town road rights-of-way: The construction, operation, and decommissioning of a SES shall not adversely impact transportation infrastructure within road rights-of-way in the Town of Lyndon or nearby municipalities. Prior to the issuance of any permits for an SES project, and following project completion, a Pavement Surface Evaluation and Rating (PASER) survey of roadways likely to be affected by the project, as identified by the Town of Lyndon, shall be conducted by an independent, qualified entity, at the expense of the applicant. The Town of Lyndon and any other affected municipalities shall be compensated for any damages resulting from activities related to the project, with the compensation determined by the Sheboygan County Transportation Department.
 - k. Code compliance: A SES shall comply with all applicable local, state, and federal regulatory codes, including the State of Wisconsin electrical and plumbing codes and the National Electrical Code.
 - l. Power and communication lines: Power and communication lines running between banks of ground mounted solar panels to nearby electrical substations, or interconnections with or between structures, shall be buried underground.
 - m. Orderly development: Upon issuance of a conditional use permit, the permit holder shall notify the Wisconsin Public Service Commission.
 - n. Decommissioning: When decommissioning of a SES is required, all equipment, whether above the ground surface or below, shall be totally removed and properly recycled or disposed of. A bond, letter of credit, or an escrow account is required for all SES with a nameplate rating of 1 MW or greater to ensure proper decommissioning. The Town of Lyndon shall be named as obligee in the bond, letter of credit, cash, or other surety and must approve the bonding company.
2. In addition to the application submittal requirements of Section 9.24 of this Ordinance, the application for a SES conditional use permit shall include the following:
- a. Solar energy system specifications, including the manufacturer and model, generating capacity, total height, collector square footage, wiring plan, means of interconnecting with the electrical grid, and any agreements with public utilities with regard to connecting to their systems.
 - b. Site layout, including the location of property lines, structures, SES; as well as the total extent of system movements, and the interconnection points with the electrical grid.
 - c. Installers' qualifications and signatures certifying that the SES will be installed in compliance with all Town ordinances and any other applicable codes.
 - d. Surrounding property uses, including distances to any adjacent nonparticipating landowner residential structures.
 - e. Percentage of land coverage by the SES when panels are in the position that has the largest horizontal area.
 - f. A decommissioning plan that outlines the anticipated means and cost of removing the SES at the end of its useful life. Decommissioning of a SES must occur in the event the SES is not in use for 12 consecutive months. Decommissioning shall consist of removal of the SES structures and subsurface foundations and equipment, disposal of all solid and hazardous waste in accordance with all applicable waste disposal regulations, and stabilization of soils and/or revegetation of the site as necessary to minimize erosion. The decommissioning methods shall be established and cost

estimates shall be made by a competent party such as a professional engineer experienced in such matters, a contractor capable of decommissioning, or a party found by the Town of Lyndon to have suitable expertise or experience. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the SES. The Town Plan Commission shall review the decommissioning plan and request changes that may be needed to comply with the conditional use permit or to protect the safety and welfare of the community and properties within the Town. The plan shall provide that decommissioning will begin within 180 days from the end of the SES useful life or if the SES is not in use for 12 consecutive months. Decommissioning shall be completed within 9 months from the start of decommissioning activities.