

City of Fayetteville Staff Review Form

2019-0642

Legistar File ID

10/15/2019

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Leif Olson

9/24/2019

SUSTAINABILITY/RESILIENCE (631)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Amend the Unified Development Code to establish development standards for principle and accessory use ground and roof mounted solar energy systems.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget

Funds Obligated

Current Balance

Does item have a cost? NA

Item Cost

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF OCTOBER 15, 2019

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Peter Nierengarten, Director of Sustainability
Garner Stoll, Development Services Director

FROM: Leif Olson, Long Range Planner

DATE: September 24, 2019

**SUBJECT: Unified Development Code Amendments - SolSmart Solar-Friendly
Community Designation**

RECOMMENDATION:

Staff recommends amending various sections of the Unified Development Code to establish development standards for principle and accessory use ground and roof mounted solar energy systems.

BACKGROUND:

SolSmart is funded by the U.S. Department of Energy's Solar Energy Technologies Office and led by the Solar Foundation and the International City/County Management Association. SolSmart is a national designation program designed to recognize communities that have taken key steps to address local barriers to solar energy and foster the growth of mature local solar markets. SolSmart recognizes cities, counties, and small towns for making it faster, easier, and more affordable to go solar. In recognition, communities receive designations of SolSmart Gold, Silver and Bronze. SolSmart has a goal of designating 300 U.S. communities by October of 2020.

The City Council adopted the Fayetteville Energy Action Plan with Resolution #25-18 on January 2, 2018. The Energy Action Plan has a building energy reduction goal of 3% annually. This transfers incrementally to an energy supply goal of achieving 50% community-wide clean energy by 2030, and 100% community-wide clean energy by 2050. City staff recognizes the SolSmart program as an asset for identifying and removing planning and/or permitting barriers for property owners and businesses from installing solar energy systems.

To achieve certification the City must meet requirements across eight categories of the SolSmart criteria. To be considered for all levels of designation, communities must meet the overall program prerequisites and points requirements in the two foundation categories: 1) Permitting and 2) Planning, Zoning and Development Regulations. These prerequisites require communities to create and post a permit checklist online and construct a review and develop a memo on existing barriers to solar in the zoning code. Communities then earn points by taking

actions across special focus categories of their choice, which also encourage solar cost reductions. These categories include: inspection, construction codes, solar rights, utility engagement, community engagement, and market development and finance.

To help communities achieve designation, SolSmart provided a no-cost technical assistant that worked with City staff to evaluate programs and practices that impact solar markets and identify high-prospect opportunities. Once designated, Fayetteville will be the first SolSmart community in the State of Arkansas.

DISCUSSION:

City staff in the Planning, Building Safety, and Sustainability Divisions worked to identify barriers to the development of solar energy systems that exist in the City's Unified Development Code. Staff consulted with our SolSmart technical assistant Nick Kasza from the National League of Cities on the proposed development code amendments.

Staff is recommending the following amendments shown in **bold** font:

Amend Chapter 151: Definitions to add the following terms:

- ***Accessory roof mounted solar energy system:*** A solar energy system that is accessory to the principle use of the property and is structurally mounted to the roof of a building or structure. For the purposes of zoning, accessory roof mounted solar energy systems shall be considered accessory structures.
- ***Accessory ground mounted solar energy system:*** A solar energy system that is accessory to the principle use of the property and is structurally mounted to the ground. For the purposes of zoning, accessory ground mounted solar energy systems shall be considered accessory structures.
- ***Principle use ground mounted solar energy system:*** A solar energy system that is the principle use of the property and is structurally mounted to the ground.

Amend Chapter 161: Zoning Districts to add the following language to zoning districts that have "Building Area" maximums (RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NS-L, R-O, C-1, C-2, P-1):

- ***Building Area.*** "Accessory ground mounted solar energy systems shall not be considered buildings."

Amend Chapter 162: Use Units to add principle use ground mounted solar energy system to Use Unit 3 - Public Protection and Utility Facilities:

- **162.01(C)(2) Included Uses: Principle Use Ground Mounted Solar Energy System**

Amend Chapter 164: Development to clarify that accessory ground mounted solar energy systems are subject to the applicable accessory structure requirements except for the requirement that accessory structures be 50% the size of the principle structure.

- **164.02(A)(5) Size of Accessory Structure(s).** Accessory structure(s) shall be 50% or less of the size of the principal structure, **except for accessory ground mounted solar energy systems.** Any accessory structure(s) requested that is greater than 50% the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with §163, governing applications of conditional use procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the property and those on surrounding properties. Accessory structures that exceed 50% of the size of the principal structure shall meet the setback requirements of the zoning district in which it is located.
- **164.02(A)(7) Accessory Ground Mounted Solar Energy Systems.** An accessory ground mounted solar energy system shall be considered an accessory structure and be subject to the applicable accessory structure requirements.

The Planning Commission unanimously forwarded this item to the City Council with a recommendation for approval with an 8-0-0 vote at their September 24, 2019 meeting.

BUDGET/STAFF IMPACT:

None

Attachments:

Planning Commission Packet



TO: Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Leif Olson, Long Range Planner – Sustainability Department

MEETING DATE: September 23, 2019

SUBJECT: **ADM 19-6827: Administrative Item (SolSmart UDC Amendments):** Submitted by STAFF to amend the Unified Development Code to establish development standards for principle and accessory use ground and roof mounted solar energy systems.

RECOMMENDATION:

Staff recommends approval of **ADM 19-6827** with a recommendation of approval to the City Council to amend the Unified Development Code Chapter's; 151-Definitions, 161–Zoning Districts, 162–Use Units, and 164-Development to establish development standards for principle and accessory use ground and roof mounted solar energy systems.

RECOMMENDED MOTION:

“I move to approve **ADM 19-6827**”

BACKGROUND:

The City Council adopted the Fayetteville Energy Action Plan with Resolution #25-18 on January 2, 2018. The Energy Action Plan has a building energy reduction goal of 3% annually. This transfers incrementally to an energy supply goal of achieving 50% community-wide clean energy by 2030, and 100% community-wide clean energy by 2050. City staff recognizes the SolSmart program as an asset for identifying and removing planning and/or permitting barriers for property owners and businesses from installing solar energy systems.

In March of 2019, the City Council passed Resolution No. 63-19, which expressed the City Council's support for participating in the SolSmart Solar-Friendly Community Program. SolSmart is funded by the U.S. Department of Energy's Solar Energy Technologies Office and led by the Solar Foundation and the International City/County Management Association. SolSmart is a national designation program designed to recognize communities that have taken key steps to address local barriers to solar energy and foster the growth of mature local solar markets. SolSmart recognizes cities, counties, and small towns for making it faster, easier, and more affordable to go solar. In recognition, communities receive designations of SolSmart Gold, Silver and Bronze. SolSmart has a goal of designating 300 U.S. communities by October of 2020.

To achieve certification the City must meet requirements across eight categories of the SolSmart criteria. To be considered for all levels of designation, communities must meet the overall program prerequisites and points requirements in the two foundation categories: 1) Permitting and 2) Planning, Zoning and Development Regulations. These prerequisites require communities to create and post a permit checklist online, construct a review process, and

develop a memo identifying existing barriers to solar in the zoning code. Communities then earn points by taking actions across special focus categories of their choice, which also encourage solar cost reductions. These categories include: inspection, construction codes, solar rights, utility engagement, community engagement, and market development and finance.

To help communities achieve designation, SolSmart provided a no-cost technical assistant that worked with City staff to evaluate programs and practices that impact solar markets and identify high-prospect opportunities. Once designated, Fayetteville will be the first SolSmart designated community in the State of Arkansas.

DISCUSSION:

City staff in the Planning, Building Safety and Sustainability Divisions worked to identify barriers to the development of solar energy systems that might exist in the City's Unified Development Code. Staff consulted with our SolSmart technical assistant Nick Kasza from the National League of Cities on the proposed development code amendments.

Staff is recommending the following amendments:

Amend Chapter 151: Definitions to add the following terms:

- ***Accessory roof mounted solar energy system:*** A solar energy system that is accessory to the principle use of the property and is structurally mounted to the roof of a building or structure. For the purposes of zoning, accessory roof mounted solar energy systems shall be considered accessory structures.
- ***Accessory ground mounted solar energy system:*** A solar energy system that is accessory to the principle use of the property and is structurally mounted to the ground. For the purposes of zoning, accessory ground mounted solar energy systems shall be considered accessory structures.
- ***Principle use ground mounted solar energy system:*** A solar energy system that is the principle use of the property and is structurally mounted to the ground.

Amend Chapter 161: Zoning Districts to add the following language to zoning districts that have "Building Area" maximums (RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NS-L, R-O, C-1, C-2, P-1):

- ***Building Area.*** "Accessory ground mounted solar energy systems shall not be considered buildings."

Amend Chapter 162: Use Units to add principle use ground mounted solar energy system to Use Unit 3 - Public Protection and Utility Facilities:

- **162.01(C)(2) *Included Uses: Principle Use Ground Mounted Solar Energy System***

Amend Chapter 164: Development to clarify that accessory ground mounted solar energy systems are subject to the applicable accessory structure requirements except for the requirement that accessory structures be 50% the size of the principle structure.

- **164.02(A)(5) *Size of Accessory Structure(s).*** Accessory structure(s) shall be 50% or less of the size of the principal structure, **except for accessory ground mounted solar energy systems**. Any accessory structure(s) requested that is greater than 50% the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with §163, governing applications of conditional use

procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the property and those on surrounding properties. Accessory structures that exceed 50% of the size of the principal structure shall meet the setback requirements of the zoning district in which it is located.

- **164.02(A)(7) Accessory Ground Mounted Solar Energy Systems. An accessory ground mounted solar energy system shall be considered an accessory structure and be subject to the applicable accessory structure requirements.**

RECOMMENDATION: Staff recommends approval of **ADM 19-6827**.

PLANNING COMMISSION ACTION:	<input checked="" type="checkbox"/> Required	<input checked="" type="checkbox"/> <u>YES</u>		
Date: <u>September 23, 2019</u>	<input type="checkbox"/> Tabled	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	
Motion:				
Second:				
Vote:				

BUDGET/STAFF IMPACT:

None

Attachments:

- Proposed Unified Development Code Amendments
 - UDC Chapter 151: Definitions
 - UDC Chapter 161: Zoning Districts
 - UDC Chapter 162: Use Units
 - UDC Chapter 164: Development

151.01 - Definitions

Add the following terms and definitions:

Accessory roof mounted solar energy system: A solar energy system that is accessory to the principle use of the property and is structurally mounted to the roof of a building or structure. For the purposes of zoning, accessory roof mounted solar energy systems shall be considered accessory structures.

Accessory ground mounted solar energy system: A solar energy system that is accessory to the principle use of the property and is structurally mounted to the ground. For the purposes of zoning, accessory ground mounted solar energy systems shall be considered accessory structures.

Principle use ground mounted solar energy system: A solar energy system that is the principle use of the property and is structurally mounted to the ground.

161.07 - District RSF-4, Residential Single-Family - Four (4) Units Per Acre

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.08 - District RSF-7, Residential Single-Family - Seven (7) Units Per Acre

(J) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.09 - District RSF-8, Residential Single-Family - Eight (8) Units Per Acre

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.10 - District RSF-18, Residential Single-Family - Eighteen (18) Units Per Acre

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.11 - District RI-12, Residential Intermediate, Twelve (12) Units Per Acre

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.12 - District RI-U, Residential Intermediate – Urban

(G) *Building Area.* The area occupied by all buildings shall not exceed 60% of the total lot area. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.13 - District RMF-6, Residential Multi-Family - Six (6) Units Per Acre

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.14 - District RMF-12, Residential Multi-Family - Twelve (12) Units Per Acre

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.15 - District RMF-18, Residential Multi-Family - Eighteen (18) Units Per Acre

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.16 - District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.17 - District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.18 - NS-L, Neighborhood Services – Limited

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of the lot. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.20 - District R-O, Residential Office

(G) *Building Area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.21 - District C-1, Neighborhood Commercial

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.23 - District C-2, Thoroughfare Commercial

(G) *Building Area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot. **Accessory ground mounted solar energy systems shall not be considered buildings.**

161.32 - District P-1, Institutional

(G) *Building Area*. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot. **Accessory ground mounted solar energy systems shall not be considered buildings.**

162.01 - Establishment/Listing

The various use units referred to in the zoning district provisions are herein listed in numerical order. Within the use units, the permitted uses are ordinarily listed in alphabetical order. In these use units where there is a preliminary descriptive statement (which may mention specific uses) in addition to the detailed list of uses, the detailed list shall govern.

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 12b	General business
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Transportation Trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants

Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 24	Home occupation
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 30	Extractive uses
Unit 31	Facilities emitting odors & facilities handling explosives
Unit 32	Sexually oriented business
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 37	Manufactured homes
Unit 38	Mini-storage units
Unit 39	Auto salvage and junk yards
Unit 40	Sidewalk Cafes

Unit 41	Accessory dwellings
Unit 42	Clean technologies
Unit 43	Animal boarding and training
Unit 44	Cluster Housing Development
Unit 45	Small scale production

(A) *Unit 1. City-Wide uses by right.*

(1) *Description.* Unit 1 consists of public uses, essential services, agricultural uses, open land uses, and similar uses which are subject to other public controls or which do not have significantly adverse effects on other permitted uses and are, therefore, permitted as uses of right in all districts.

(2) *Included Uses.* Public facilities of the types embraced within the recommendations of the Comprehensive Land Use Plan.

Agricultural, forestry, and fishery:	• Field crop farms
	• Fishery
	• Forest
	• Fruit, tree, and vegetable farm
Essential services located in public right-of-way:	• Fire alarm box
	• Fire hydrant
	• Passenger stop for bus
	• Police alarm box
	• Sidewalk
	• Street, highway, and other thoroughfare
	• Street signs, traffic signs, and signals

	<ul style="list-style-type: none"> • Utility mainline, local transformer and station, and similar facilities customarily located in public right-of-way
Recreation and related use:	<ul style="list-style-type: none"> • Arboretum
	<ul style="list-style-type: none"> • Historical marker
	<ul style="list-style-type: none"> • Park area
	<ul style="list-style-type: none"> • Parkway
	<ul style="list-style-type: none"> • Wildlife preserve
Water facilities:	<ul style="list-style-type: none"> • Reservoir, open
	<ul style="list-style-type: none"> • Watershed
	<ul style="list-style-type: none"> • Conservation or flood control project

(B) *Unit 2. City-Wide Uses by Conditional Use Permit.*

(1) *Description.* Unit 2 consists of uses which may be conducted anywhere in the territorial jurisdiction, but which can be objectionable to nearby uses and are therefore permitted subject to conditional use permits in all districts.

(2) *Included Uses.*

Public and private facilities:	<ul style="list-style-type: none"> • Airport, flying fields and heliport
	<ul style="list-style-type: none"> • Bed and breakfast facilities*
	<ul style="list-style-type: none"> • Campground
	<ul style="list-style-type: none"> • Community Recycling Drop-off Facility
	<ul style="list-style-type: none"> • Landscape contracting business
	<ul style="list-style-type: none"> • Plant nursery

	<ul style="list-style-type: none"> • RV sewage disposal facility
	<ul style="list-style-type: none"> • Solid waste disposal facility
	<ul style="list-style-type: none"> • Water recreation area
Temporary facilities:	<ul style="list-style-type: none"> • Carnival, circus, and tent revival*
	<ul style="list-style-type: none"> • Commercial facilities
	<ul style="list-style-type: none"> • Real estate sales office (located at a specific location in an underdeveloped subdivision and operated for the purpose of developing said subdivision)
	<ul style="list-style-type: none"> • School and church facility

(C) *Unit 3. Public Protection and Utility Facilities.*

(1) *Description.* Unit 3 consists primarily of public protection and utility equipment which:

- (a) Is ordinarily not located in the street right-of-way and can be significantly objectionable to nearby residential, commercial, and light industrial uses;
- (b) Have requirements for specific locations or are needed to serve residential neighborhood or local areas; and
- (c) Are, therefore, permitted only on review.

(2)

Included Uses.

Facilities of Public Service Corporations:	<ul style="list-style-type: none"> • Electric regulating station
	<ul style="list-style-type: none"> • Pressure control station
	<ul style="list-style-type: none"> • Transmission station for tower, radio, telegraph, telephone, television
Other utility and protective facilities:	<ul style="list-style-type: none"> • Airway beacon
	<ul style="list-style-type: none"> • Public utility maintenance building, warehouse, or storage building

	<ul style="list-style-type: none">• Water pipeline rights-of-way, sewer or water treatment plant, water storage facility
Railroad rights-of-way	
Communications and utility transmission line rights-of-way	
Principle use ground mounted solar energy system	

164.02 - Accessory Structures And Uses

Accessory Structures and Uses. Accessory structures and uses shall be subject to the applicable use conditions set forth in Zoning, Chapters 160 through 165, and to the following general conditions:

(A) *Accessory Structures.*

(1) *When Erected.* No accessory structure shall be erected on any property prior to the construction of the principal structure, unless such accessory structure shall have been approved by the Planning Commission as a conditional use. An approved accessory structure erected prior to the principal structure shall not be inhabited.

(2) *Integral Part of Principal Structure.* An accessory structure erected as an integral part of the principal structure shall be made structurally a part thereof, shall have a common wall therewith, and shall comply in all respects with the requirements of the building code applicable to the principal structure.

(3) *Height and Setback Restrictions.* Accessory structures 10 feet or less in height shall maintain a minimum side setback of 3 feet and a minimum rear setback of 5 feet from the property lines. Accessory structures greater than 10 feet in height shall meet the setback requirements of the zoning district in which it is located. All accessory structures shall conform to the front setbacks of the zoning district in which it is located.

(4) *Build-to Zones.* Accessory structures shall be exempt from meeting the requirements of the build-to zone in any zoning district.

(5) *Size of Accessory Structure(s).* An accessory structure(s) shall be 50% or less of the size of the principal structure, **except for accessory ground mounted solar energy systems.** Any accessory structure(s) requested that is greater than 50% the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with §163, governing applications of conditional use procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the property and those on surrounding properties. Accessory structures that exceed 50% of the size of the principal structure shall meet the setback requirements of the zoning district in which it is located.

(6) *Shared Accessory Structures.* Shared accessory structures may be constructed across common property lines, subject to all building and fire codes. Building setbacks for shared accessory structures may be administratively varied to permit zero lot line development. Easements for driveway access and maintenance of the structure and driveway shall be provided prior to the issuance of a building permit. For purposes of calculating size of shared accessory structures, only that portion of the shared accessory structure on the lot with the principal structure shall count toward the maximum allowable size.

(7) *Accessory Ground Mounted Solar Energy Systems.* An accessory ground mounted solar energy system shall be considered an accessory structure and be subject to applicable accessory structure requirements.