5(b)

NO CHANGE FROM PREVIOUS READING

CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

Date: May 2, 2016

ITEM: Ordinance Amendment - Amend Title 4 (Health and Safety Regulations) and Title 9 (Zoning) to establish regulations pertaining to solar energy systems - City Initiated – AO-002916-2015

ORDINANCE: Approval of Second Reading, Waive Third and Adopt in Final Form

FINANCIAL IMPACT: Undetermined.

BACKGROUND: Staff recommended an amendment to Title 4 (Health and Safety Regulations) and Title 9 (Zoning) to establish regulations pertaining to solar energy systems. The proposed ordinance contain regulations to ensure that solar energy systems within the City are appropriately designed, sited and installed.

Previous Council Action:
Vote: 4-0 approval, Council member Trimble absent
Date: April 18, 2016
Motion: Approval of the First Reading of the ordinance

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the City Council approve the second reading, waive the third reading and adopt the Ordinance amendment in final form.

Lead Staff Member: Linda Schemmel, AIA

Staff Reviews:

Department Director	
Appropriations/Finance	
Legal	JRW
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register	
Date(s) Published	November 27, 2015	
Letter sent to surrounding property owners		N/A

SUBCOMMITTEE REVIEW (if applicable)

Committee	Development & Planning		
Date Reviewed	11/5/2015, 11/19/2015, 1/11/2016, 2/22/2016		
Recommendation	Yes ☐	No ☐	Split ☒

ATTACHMENT:
Exhibit I - Proposed Ordinance

Prepared by: L. Schemmel, Development Services Development, PO Box 65320, West Des Moines, IA 50265, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA 2014 BY AMENDING TITLE 4, NUISANCES, CHAPTER 2, NUISANCES DECLARED AND TITLE 9, ZONING, CHAPTER 10: PERFORMANCE STANDARDS, SECTION 4, SPECIFIC USE REGULATIONS, AND CHAPTER 14, ACCESSORY STRUCTURES, SECTION 11, FENCES AND WALLS AND SECTION 14, VARIANCES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

Section 1. Amendment. Title 4, *Health and Safety Regulations,* Chapter 4, *Nuisances,* Section 2, *Nuisances Declared* is hereby modified by inserting the language indicated in italicized and bolded text below.

4-4-2: NUISANCES DECLARED

Whatever is injurious to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property, is a nuisance. Nuisances shall include, but not be limited to, those activities and items hereafter set forth in this section:

A. Weeds: Weeds or vegetation allowed to grow to a height greater than ten inches (10") on the average, or any accumulation of dead weeds, grass, brush, or trees on any occupied or unoccupied lot or land. Exceptions include:

1. Trees And Shrubs: The use of trees and shrubs for landscaping purposes;

2. Erosion Control: Areas planted to offset and control any soil loss problems, both occurring or predicted, including areas along waterways and edges of lakes, ponds, and stormwater retention/detention facilities;

3. Wooded Areas: All areas that are predominately wooded and over one acre in size;

4. Educational Programs: Any areas designated for educational studies;

5. Gardens: Areas dedicated to growing fruits or vegetables for personal consumption or to growing flowers, native plants, ornamental grasses, ground covers, shrubs, and similar plants which are cultivated and/or mulched to remain free of weeds, grassy weeds, or volunteer plants. Vegetation in gardens shall not be allowed to grow onto adjacent property. Fruit and vegetable gardens are prohibited within the public right of way. Landscaping with flowers, plants, and grasses may be allowed within the public right of way, but shall be limited to the

immediate area surrounding a mailbox, shall not exceed eight (8) square feet in size, and shall not interfere with the vision triangle as provided in this code. There shall be no compensation by the city to the property owner for any damage to or removal of such items placed within the public right of way;

6. Streetscapes: Plantings within the public right of way that are part of a planned city streetscape or a landscape plan submitted and approved as part of a development permit;

7. Parks And Open Space: Any and all public parks and open space lands whether under the jurisdiction of federal, state, county, or local agencies, including private conservation/preservation organizations; and

8. Native Planting Areas: Areas of native plant species on any parcel, with the exception of individual single-family lots, that are part of a landscape plan submitted and approved as part of a development permit.

9. All vegetation, other than trees and shrubs, must be cut at least once annually to a height no greater than ten inches (10"). As an alternative to cutting, native planting areas (see exceptions at subsections A7 and A8 of this section) on both private and public property may be maintained by controlled burning with an approved permit from the city's fire department. Natural areas in public parks and greenways shall be exempt from annual maintenance requirements.

10. No exceptions will be granted that violate the Iowa noxious weeds and the Iowa weed law chapter 317, Code of Iowa, 2009.

B. Rubbish, Trash: Accumulation of rubbish, trash, refuse, junk, and other salvage materials, such as metals and lumber, that are allowed to accumulate to the prejudice of others or any material having lost its value for the original purpose for which it was created or manufactured.

C. Debris On Right Of Way: Mud, dirt, gravel, snow, leaves, or other debris, substances, or objects deposited upon the public right of way, including, but not limited to, debris, substances, or objects that unnecessarily restrict the movement of vehicular or pedestrian traffic along the public streets and sidewalks.

D. Dilapidated Buildings: Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or any building or structure defined as a dangerous building in the uniform code for the abatement of dangerous buildings, 1988 edition, as adopted by the city.

E. Abandoned Buildings: Abandoned buildings or other structures.

F. Inoperable/Obsolete Vehicles: The storage, parking, leaving, or permitting the storage, parking, or leaving of an inoperable/obsolete vehicle upon private property within the city. This subsection shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a junkyard, or auto and truck oriented use operated in the appropriate zone, pursuant to the zoning laws.

G. Vehicles Parked On Unpaved Surfaces: Vehicles parked on private property with residential zoning on an unpaved surface or a surface that does not comply with subsections 9-15-4B and 9-15-6G of this code.

H. Fences: Fences that are not in a structurally sound condition.

I. Vermin Harborage: Conditions which are conducive to the harborage or breeding of vermin.

J. Sanitary Sewer Facilities: Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools and drainfields, which have failed or do not function properly or which are overflowing, leaking or emanating odors. Septic tanks, cisterns, and cesspools which are

abandoned or no longer in use unless they are emptied and filled with clean fill. Any vault, cesspool, or septic tank which does not comply with the Polk County or Dallas County department of health regulations.

K. Overland Flowage Easements And Stormwater Flowage Easements: No alteration or modification shall be made nor any obstructions placed in the overland flowage easement or storm flowage easement which prevents, obstructs, or impedes the overland water flow or surface water flow from adjacent lands entering or draining into and through the easement without first obtaining the expressed written consent of the city.

L. Other Nuisances: Any nuisance described as such by chapter 657 of the Iowa Code.

M. Waste Disposal: The placing in a compost pile, yard, or garden, the burying or the burning of rubbish, trash, refuse, junk, used construction materials, or unprocessed animal waste, or any other inappropriate items which are generally offensive to the senses of the general public.

N. Discharge Of Waters: Any discharge of waters which collect upon private real estate from subsurface or surface drainage to a point upon or adjacent to a public sidewalk, street, or property line as to permit the waters discharged to drain upon a public sidewalk, street, or onto adjoining real estate. The public works director or designee may require that any such discharge be connected to the public storm sewer system, if available, or be directed to a discharge point which eliminates or lessens the nuisance. (Ord. 1910, 2-22-2011)

O. Dilapidated/Inoperable Mechanical Equipment: The storage, leaving, or permitting the storage, of dilapidated/inoperable mechanical equipment upon private property within the city including but not limited to: heating, ventilating and cooling equipment, pumps, generators and solar or wind generated energy systems.

Section 2. <u>Amendment.</u> Title 9, *Zoning,* Chapter 10, *Performance Standards,* Section 4, *Specific Use Regulations* is hereby modified by inserting the language indicated in italicized and bolded text below.

9-10-4: SPECIFIC USE REGULATIONS

A. The Following Standards Shall Apply To All Zoning Districts Unless Noted Otherwise In This Title:

1. Fuel Supply Systems: All fuel supply systems shall be constructed and installed in accordance with all applicable requirements of this Title, the Uniform Building Code as adopted and amended by the City, the Uniform Fire Code as adopted and amended by the City, and any other applicable, local, County, State, or Federal regulations or requirements.

2. Screening Of Mechanical Units: The following standards apply to the location and screening of mechanical equipment:

a. Screening Of Ground Mounted Mechanical Units: For all uses, except for single-family detached and bi-attached residential uses, all ground-mounted mechanical units, including but not limited to: air-conditioning condensers, heat pumps, ventilation units, computer cooling equipment, etc., and any related utility structures and equipment, that are visible from any adjacent public thoroughfare shall be visibly screened from public view by the use of a screening wall built out of materials compatible and consistent with the architecture and materials of the principal building, landscape plantings of predominately evergreen materials to provide year-round screening, or a combination of the above. The type of screening to be used shall be identified as part of the site plan or permitted conditional use permit (Pc) submittal.

b. Screening Of Roof Mounted Mechanical Units: All roof-mounted mechanical units shall be screened from adjacent public thoroughfares by the use of an opaque screening material compatible with the architecture of the building or architecturally designed screening, such as

a parapet wall. The screening of the roof-mounted units shall be designed to blend with the building and roof materials. Additional screening may be required due to topographic differences in the adjoining properties.

c. Location Of Meters In Single-Family And Bi-Attached Developments: Single-family and bi-attached residential developments shall be prohibited from locating the mechanical units and meters in the front yard of the property unless adequate screening is provided to visibly screen these elements from the public view. (Ord. 1190, 6-17-1996)

3. ***Screening of Solar Energy Systems:***

a. ***Ground mounted solar energy systems should be sited to visually mitigate undesirable features that are visible at grade from surrounding properties and public thoroughfares. The City is aware of the operating needs of these types of structures and acknowledges that it may be impossible to orient a system to hide its undesirable features such as the structural elements, rear face of the collector panels, mechanical equipment and accessories. Should any of these features be visible, the following options are acceptable methods of screening the view of these undesirable features:***

1. ***An enclosure or a freestanding screen wall or fence of an opaque design built out of materials consistent with the architecture and materials of the principal building. Landscape plantings may be implemented in combination with the screen enclosure, fence or wall to soften the appearance of the installation.***
2. ***Landscape plantings that are composed of evergreen materials to provide year-round screening may be implemented in lieu of screen enclosure, fence or wall. Plant material shall be of sufficient height and size at the time of installation to fully screen the undesirable features of the system.***

b. ***Building mounted systems do not require screening if they comply with the requirements as noted in Title 9 (Zoning), Chapter 14 (Accessory Structures), Section14 (Solar Energy Systems) of the West Des Moines City Code. However the structural elements, equipment and accessories related to a system mounted on a flat roof that are visible from any adjacent public thoroughfare or adjacent property shall be selected to be a similar color to the roof surface or adjacent building materials to mitigate the visual impact of the system. Wall or ground mounted mechanical equipment related to any Solar Energy System as noted in subsection A2a of this Section, will require screening.***

Section 3. <u>Amendment.</u> Title 9, *Zoning,* Chapter 14, *Accessory Structures,* Section 11, *Fences and Walls* is hereby modified by inserting the language indicated in italicized and bolded text below.

9-14-11: FENCES AND WALLS

C. Fence Regulations:

1. Residential Estate And Agriculture/Open Space Districts: Unless otherwise specified herein, eight foot (8') fences shall be allowed within residential estate (RE) and open space districts (OS). All eight foot (8') fences shall be constructed of decorative metal and maintain a consistency of fifty percent (50%) open space for the full length of said fence, and the use of any chainlink fence, of any type, shall be prohibited. This calculation shall be provided at the time of a building permit application.

2. Industrial Districts: Unless otherwise specified herein, fences and walls not exceeding eight feet (8') in height are allowed within the limits of side and rear yards. Fences may be allowed within the limits of the front yard if approved by the city council through the site plan or permitted

conditional use permit process. The use of barbed wire may be allowed, provided the barbed wire is not less than six feet (6') above the ground. (Ord. 1354, 3-22-1999)

3. Warehouse Retail District: Fences and screen walls not exceeding twelve feet (12') in height are allowed within the limits of the side and rear yards. Fences may be allowed within the limits of the front yard if approved by the city council or board of adjustment through the site plan or permitted conditional use permit process. (Ord. 1629, 4-25-2005)

4. All Other Districts: Unless otherwise specified herein, fences and walls not exceeding six feet (6') in height are allowed within the limits of side and rear yards. A fence or wall, not exceeding four feet (4') in height is allowed up to the property line provided the visual clearance is maintained.

5. Decorative Features: In all districts, decorative features such as individual posts, trellises, brick or stone columns, and similar features constructed as part of a fence or wall shall be allowed to exceed the maximum fence height by no more than twelve inches (12"). Decorative features shall not be counted towards the open space percentage of the fence. Pedestrian entry features which only include arbors, arched entries, arcades or finials may exceed the maximum allowable fence height in any yard subject to design review and approval of the director of community development. (Ord. 1354, 3-22-1999; amd. Ord. 1629, 4-25-2005)

6. Single Faced Fences: Single faced fences shall have their unfinished side (side with exposed posts) facing towards the property on which the fence is erected. Provisions for landscaping to soften the visual appearance of the fence or wall and provide additional buffering may be required and will be reviewed on a case by case basis. In addition, the following shall apply:

   a. Safety rails or fencing may be required to satisfy building code requirements.

7. ***Screening of Mechanical Units: Unless otherwise specified herein, fences or walls installed as a method of screening mechanical equipment may exceed height limitations of the specific zoning districts in order to effectively screen the mechanical equipment if they are located in direct proximity to the equipment. All screen fences or walls shall be opaque in design and be built out of materials consistent with the architecture and materials of the principal building. Any open area required for ventilation of the equipment shall be designed to prevent full view of the equipment. The design of the screen fence or wall and the height required for full screening shall be provided at the time of a building permit or site plan application.***

Section 4. Amendment. Title 9, *Zoning,* Chapter 14, *Accessory Structures,* Section 14, *Variances* is hereby modified by inserting the italicized and bolded language and deleting the highlighted strikethrough language included below.

9-14-14: ~~VARIANCES~~ ***SOLAR ENERGY SYSTEMS***

~~Application for a variance of any of the above provisions shall be made to the board of adjustment in the manner provided in title 2 of this code.~~

A. INTENT: The intent of this ordinance is to balance the need for clean, renewable energy resources and the necessity to protect the public health, safety and welfare of the community. The City finds these regulations are necessary to ensure that Solar Energy Systems are appropriately designed, sited and installed.

B. DEFINITIONS

COLLECTOR PANEL: An equipment assembly used for gathering, concentrating or absorbing solar energy as useful thermal energy or to generate electric energy.

HEIGHT, TOTAL GROUND MOUNT SYSTEM: ***The height above grade of the system from the highest point, including the supporting structure, related equipment and the collector panels. Adjustable angle systems will be measured from the highest point when the system is at its maximum vertical extension.***

HEIGHT, TOTAL BUILDING MOUNTED SYSTEM: ***The height above the roof surface measured perpendicular to the roof specific to the installation on a sloped roof or the height above the roof surface specific to the installation on a flat roof.***

LARGE SOLAR ENERGY SYSTEM (LSES): ***A solar energy system which has a nameplate rated capacity of over fifteen (15) kilowatts in electrical energy or fifty (50) KBTU of thermal energy for non-single family residential uses and districts and which is incidental and subordinate to a principal use on the same parcel. A system is considered a LSES only if it supplies electrical power or thermal energy solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on-site use may be used by the utility company in accordance with section 199, chapter 15.11(5) of the Iowa Administrative Code, as amended from time to time.***

OFF GRID: ***An electrical system that is not connected to a utility distribution grid.***

SMALL SOLAR ENERGY SYSTEM (SSES): ***A solar energy system which has a nameplate rated capacity of up to fifteen (15) kilowatts in electrical energy or fifty (50) KBTU of thermal energy for residential uses and districts and which is incidental and subordinate to a principal use on the same parcel. A system is considered a SSES only if it supplies electrical power or thermal energy solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on-site use may be used by the utility company in accordance with section 199, chapter 15.11(5) of the Iowa Administrative Code, as amended from time to time.***

SOLAR ACCESS: ***A property owner's right to have sunlight shine on his land.***

SOLAR ENERGY: ***Radiant energy received from the sun at wavelengths suitable for heat transfer, photosynthetic use or photovoltaic use.***

SOLAR ENERGY SYSTEM (SES): ***An aggregation of parts including the base, supporting structure, photovoltaic or solar thermal panels, inverters and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert radiant energy from the sun into mechanical or electrical energy.***

SOLAR ENERGY SYSTEM, BUILDING INTEGRATED: ***A solar photovoltaic system that is constructed as an integral part of a principal or accessory building and where the collector component maintains a uniform profile or surface with the building's vertical walls, window openings, and roofing. Such a system is used in lieu of an architectural or structural component of the building. A building-integrated system may occur within vertical facades, replacing glazing or other facade material; into semitransparent skylight systems; into roofing systems, replacing traditional roofing materials; or other building or structure envelope systems. To be considered a building integrated solar energy system, the appearance of the collector components must be consistent with the surrounding materials.***

SOLAR ENERGY SYSTEM, BUILDING MOUNTED: ***A SES which is securely fastened to any portion of a building roof, whether attached directly to the principal or accessory building***

SOLAR ENERGY SYSTEM, GROUND MOUNTED: ***A SES which is not located on a building and is ground mounted.***

UTILITY SCALE SOLAR ENERGY SYSTEM: *A solar energy system which supplies electrical power or thermal energy solely for use by off-site consumers.*

C. GENERAL REGULATIONS:

1. ***Allowances for Solar Energy Systems (SES) shall be as follows:***
   - ***A building integrated system***
   - ***A building mounted system attached to the roof of an accessory or primary structure.***
   - ***A ground mounted system as a detached accessory structure to a primary structure.***
   - ***Large Solar Energy Systems (LSES) are not allowed in Open Space zoning district and single family residential used or zoned property.***
   - ***Utility Scale Solar Energy Systems are not allowed.***

2. ***Permit Required: It shall be unlawful to construct, erect, install, alter or locate any Solar Energy System (SES) within the City of West Des Moines, unless approved with:***
   - ***Building Permit in the following Zoning Districts: Open Space and single family residential zoned property.***
   - ***Site Plan, Major or Minor Modification to a Site Plan permit for all other zoning districts.***
   - ***The owner/operator of the SES must also obtain any other permits required by other federal, state and local agencies/departments prior to erecting the system.***

3. ***Installation: Installation must be done according to manufacturer's recommendations. All work must be completed according to the applicable building, fire and electric codes. All electrical components must meet code recognized test standards.***

4. ***Number of Systems per Zoning Lot: No more than one SES may be placed on any zoned lot unless otherwise specifically approved by the City Council.***

5. ***Engineer Certification: Applications for any SES shall be accompanied by standard drawings of the receiving structure if newly constructed, including the supporting frame and footings. For systems to be mounted on existing buildings, an engineering analysis showing sufficient structural capacity of the receiving structure to support the SES per the applicable code regulations, certified by an Iowa licensed professional engineer shall be submitted.***

6. ***Color: The SES shall be a neutral color. All surfaces shall be non-reflective to minimize glare that could affect adjacent or nearby properties. Measures to minimize nuisance glare may be required including modifying the surface material, placement or orientation of the system, and if necessary, adding screening to block glare.***

7. ***Lighting: No lighting other than required safety lights or indicators shall be installed on the SES.***

8. ***Signage: No advertising or signage other than required safety signage and equipment labels shall be permitted on the SES.***

9. ***Maintenance: Facilities shall be well maintained in an operational condition that poses no potential safety hazard. Should the SES fall into disrepair and be in such dilapidated condition that it poses a safety hazard or would be considered generally offensive to the senses of the general public, the SES may be deemed a public nuisance and may be abated in accordance with Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances) of the West Des Moines City Code.***

10. ***Displacement of Parking Prohibited: The location of the SES shall not result in the net loss of required parking as specified in Chapter 15 of this title.***

11. ***Utility Notification: No SES that generates electricity shall be installed until evidence has been given that the utility company has been informed of and is in agreement with the customer's intent***

to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

12. *Interconnection: The SES, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa utilities board.*

13. *Restriction on Use of Energy Generated: A SES shall be used exclusively to supply electrical power or thermal energy for on-site consumption, except that excess electrical power generated by the SSES and not presently needed for on site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code.*

14. *Shut Off: A clearly marked and easily accessible shut off for any SES that generates electricity will be required as determined by the Fire Marshal.*

15. *Electromagnetic Interference: All SES shall be designed and constructed so as not to cause radio and television interference. If it is determined that the SES is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the appropriate City authority. A permit granting a SES may be revoked if electromagnetic interference from the SES becomes evident.*

16. *Solar Access Easements: The enactment of this chapter does not constitute the granting of an easement by the city. The owner/operator may need to acquire covenants, easements, or similar documentation to assure sufficient solar exposure to operate the SES unless adequate accessibility to the sun is provided by the site. Such covenants, easements, or similar documentation is the sole responsibility of the owner/operator. Should the owner/operator pursue a solar access easement, the extent of the solar access should be defined and the easement document executed in compliance with the regulations contained in the Chapter 564A (Access to Solar Energy) of the Iowa Code.*

17. *Compliance with National Electric Code: Applications for SES shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.*

18. *Removal: If the SES remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned. The owner/operator shall remove the abandoned system at their expense. Removal of the system includes the entire structure, collector panels and related equipment from the property excluding foundations. Should the owner/operator fail to remove the system, the SES will be considered a public nuisance and will be abated in accordance with Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances) of the West Des Moines City Code.*

19. *Screening: SES that are visible from the public thoroughfare or adjacent properties will require screening in accordance to regulations for screening of mechanical units noted in Chapter 4 (Specific Use Regulations) and in Chapter 10 (Performance Standards) of this title. The need for and type of screening to be used shall be identified as part of the Building Permit, Major or Minor Modification to a Site Plan or Site Plan Permit submittal.*

20. *Nonconforming Systems: A SES that has been installed on or before the effective date of this Section and is in active use and does not comply with any or all of the provisions of this section shall be considered a legal non-conforming structure and will be regulated by the provisions noted in Chapter 3 (General Zoning Provisions), Section 4 (Nonconforming Buildings, Structures, Uses, Uses of Land or Uses of Buildings or Structures) of this title.*

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

D. BULK REGULATIONS

1. Location:

- ***Ground Mounted SES***
  1. ***No part of a SES shall be located within or over drainage, utility or other established easements, or on or over property lines.***
  2. ***The SES shall be located in accordance to the regulations for detached accessory structures in Chapter 14 (Accessory Structure) of this title or not less than one (1) foot from the property line for every one (1) foot of the system height measured at its maximum height, whichever is most restrictive.***
  3. ***A SSES cannot be located in front of the rear wall of the primary structure, even if it meets the front yard setback requirements. A LSES cannot be located in the front yard setback.***
  4. ***A SES shall not be located in any required buffer.***
  5. ***The setback from underground electric distribution lines shall be at least five feet.***
  6. ***No SES shall be located which may obstruct vision between a height of thirty inches (30") and ten feet (10') on any corner lot within a vision triangle of twenty five feet (25') formed by intersecting street right of way lines***
- ***Building Mounted SES***
  1. ***The solar energy system shall be setback not less than one (1) foot from the exterior perimeter of the roof for every one (1) foot the system extends above the parapet wall or roof surface.***
  2. ***Should the solar energy system be mounted on an existing structure that does not conform to current setback requirements, the solar energy system shall be installed to meet the current setback requirements applicable to the receiving structure.***
  3. ***Shall be designed to minimize their visual presence to surrounding properties and public thoroughfares. Panel arrangement shall take in account the proportion of the roof surface and place the panels in a consistent manner without gaps unless necessary to accommodate vents, skylights or equipment.***
  4. ***Access pathways for the SES shall be provided in accordance to all applicable building, fire and safety codes.***
  5. ***Shall be located in such a manner that fall protection railings are not required or are not visible from the public thoroughfare.***
- ***Building Integrated SES***
  1. ***No setback required***
  2. ***Access pathways for the SES shall be provided in accordance to all applicable building, fire and safety codes.***
  3. ***Shall be located in such a manner that fall protection railings are not required or are not visible from the public thoroughfare.***
- ***No SES shall be constructed within 20 feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops).***

2. Height:

- ***Ground Mounted SES***
  1. ***The maximum height of the SES shall not exceed ten (10) feet in height as measured from existing grade.***
- ***Building Mounted SES***
  1. ***The collector panel surface and mounting system shall not extend higher than eighteen (18) inches above the roof surface of a sloped roof.***
  2. ***The collector panel surface and mounting system shall not extend higher than seven (7) feet above the roof surface of a flat roof.***
- ***Building Integrated SES***
  1. ***The collector panel shall maintain a uniform profile or surface with the building's vertical walls, window openings, and roofing.***

3. ***Size:***

- ***Size of the SES is calculated by measuring the total surface area of the collector panels for the system.***
- ***Ground Mounted SES:***
  1. ***In single family residential used or zoned property the SES is restricted in size to no more than the allowed area for detached accessory structures on the specific property. The SES would be included in the collective total of all detached accessory structures.***
  2. ***In all other zoning districts the SES is restricted in size to no more than 50% of the area of the primary structure(s) footprint.***
- ***Building Mounted SES: System size will be determined by the available roof area subject to the installation minus the required setbacks or access pathways.***
- ***Building Integrated SES: System size will be determined by the available building surface area subject to the installation minus the required access pathways.***
- ***In no case shall a SSES exceed the nameplate rated capacity of fifteen (15) kilowatts or fifty (50) KBTU.***

4. ***APPLICATION REQUIRED: Application for SES shall be made on forms provided by the City of West Des Moines. No action may be taken regarding requests for SES until completed applications have been filed and fees paid.***

Section 5. Amendment. Title 9, *Zoning,* Chapter 14, *Accessory Structures,* Section 15, *Variances* is hereby added by inserting the italicized and bolded language included below.

9-14-15: VARIANCES

Application for a variance of any of the above provisions shall be made to the board of adjustment in the manner provided in Title 2 of this Code.

Section 6. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 7. Savings Clause. If any section, provision, sentences, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any provision, section, subsection, sentences, clause, phrase or part hereof not adjudged invalid or unconstitutional.

Section 8. Violations and Penalties. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

Section 9. Other Remedies. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

Section 10. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2016, and approved this _____ day of _____, 2016.

_____

Steven K. Gaer
Mayor

ATTEST:

_____

Ryan T. Jacobson
City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2016, and was published in the Des Moines Register on _____, 2016.

_____

Ryan T. Jacobson
City Clerk