

Chapter 21

ACCESS TO SOLAR ENERGY

12-21-1: REQUIREMENTS AND PROCESS FOR EASEMENTS:

The commission is established as the solar access regulatory board for Mason City, pursuant to chapter 564A, code of Iowa. The solar access regulatory board may grant solar access easements upon application, following a public hearing, and subject to the following requirements:

- A. An owner of property may apply for a solar access easement by filing an application with the secretary of the planning and zoning commission which application shall contain the following:
1. A statement of the need for the solar access easement by the owner of the dominant estate.
 2. A legal description of the dominant and servient estates.
 3. The name and address of the dominant and servient estate owners of record.
 4. A description of the solar collector to be used.
 5. The size and location of the collector including heights, its orientation with respect to south and its slope from the horizontal shown either by drawings or in words.
 6. An explanation of how the applicant has done everything reasonable, taking cost and efficiency into account, to design and locate the collector in a manner to minimize the impact on development of servient estates.
 7. A legal description of the solar access easement which is sought and a drawing that is a spatial representation of the area of the servient estate burdened by the easement illustrating the degrees of the vertical and horizontal angles through which the easement extends over the burdened property and the points from which those angles are measured.
 8. A statement that the applicant has attempted to voluntarily negotiate a solar access easement with the owner of the servient estate and has been unsuccessful in obtaining the easement voluntarily.
 9. A statement that the space to be burdened by the solar access easement is not obstructed at the time of filing of the application by anything other than vegetation that would shade the solar collector.
 10. Appraisal prepared by a qualified appraiser, establishing the difference between the full market value of the servient estate prior to and after the existence of the solar access

easement sought.

11. A filing fee to defray the cost of copying and mailing the application and notice.

- B. Upon receipt of the application, the solar access regulatory board shall determine whether the application is complete and contains the information required under subsection A of this section. The solar access regulatory board may return an application for correction of any deficiencies. Upon acceptance of an application, the solar access regulatory board shall schedule a hearing. The solar access regulatory board shall cause a copy of the application and a notice of the hearing to be served upon the owners of the servient estates in the manner provided for service of original notice and at least twenty (20) days prior to the date of the hearing. The notice shall state that the solar access regulatory board will determine whether and to what extent a solar access easement will be granted, that the solar access regulatory board will determine the compensation that may be awarded to the servient estate owner if the solar access easement is granted and that the servient estate owner has the right to contest the application before the solar access regulatory board.
- C. After the hearing on the application, the solar access regulatory board shall determine whether to issue an order granting a solar access easement. The solar access regulatory board shall grant a solar access easement if the solar access regulatory board finds that there is a need for the solar collector, that the space burdened by the easement was not obstructed by anything except vegetation that would shade the solar collector at the time of filing of the application, that the proposed location of the collector minimizes the impact of the easement on the development of the servient estate and that the applicant tried and failed to negotiate a voluntary easement. However, the solar access regulatory board may refuse to grant a solar access easement upon a finding that the easement would require the removal of trees that provide shade or a windbreak to a residence on the servient estate. The solar access regulatory board shall not grant a solar access easement upon a servient estate if the solar access regulatory board finds that the owner, at least six (6) months prior to the filing of the application, has made a substantial financial commitment to build a structure that will shade the solar collector. In issuing its order granting the solar access easement, the solar access regulatory board may modify the solar access easement applied for and impose conditions on the location of the solar collector that will minimize the impact upon the servient estate.
- D. The solar access regulatory board shall grant a solar access easement only within the area that is within three hundred feet (300') of the center of the northernmost boundary of the collector and is south of a line drawn east and west tangent to the northernmost boundary of the collector.
- E. The solar access regulatory board shall determine the amount of compensation that is to be paid

to the owners of the servient estate for the impairment of the right to develop the property. Compensation shall be based on the difference between the fair market value of the property prior to and after granting the solar access easement. The parties shall be notified of the solar access regulatory board's decision within thirty (30) days of the date of the hearing. The owner of the dominant estate shall have thirty (30) days from the date of notification of the solar access regulatory board's decision to deposit the compensation with the solar access regulatory board. Upon receipt of the compensation, the solar access regulatory board shall issue an order granting the solar access easement to the owner of the dominant estate and remit the compensation awarded to the owners of the servient estate. The owner of the dominant estate may decline to deposit the compensation with the solar access regulatory board and no order granting the solar access easement shall then be issued.

F. When the order granting the solar access easement is issued, the owner of the dominant estate shall have it recorded in the office of the county recorder who shall record the solar access easement and list the owner of the dominant estate as grantee and the owner of the servient estate as grantor in the deed index. After being recorded, the solar access easement shall be considered an easement appurtenant in or on the servient estate.

G. The owner of a servient estate may apply to the solar access regulatory board for an order removing a solar access easement granted by the solar access regulatory board under this section under any of the following conditions:

1. If the solar collector is not installed and made operational within two (2) years of recording the easement.
2. If the dominant estate owner ceases to use the solar collector for more than one year.
3. If the solar collector is destroyed or removed and not replaced within one year.

The procedure for filing an application with the solar access regulatory board under this section and for notice and hearings on the application shall be the same as that prescribed for an application for granting a solar access easement. An order issued by the solar access regulatory board removing a solar access easement may provide for the return by the servient estate owner of compensation paid by the dominant estate owner for the solar access easement after the deduction of reasonable expenses incurred by the servient estate owner in proceeding for the granting and removal of the easement. (Ord. 10-003, 1-19-2010, eff. 7-1-2010)