

JEFFERSON COUNTY

NEBRASKA

ZONING REGULATION ~~2025~~ 2026

DRAFT FOR PUBLIC REVIEW – WITH COUNTY BOARD EDITS

RESOLUTION NO. _____

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF
JEFFERSON COUNTY, NEBRASKA

Prepared By

The Jefferson County Planning Commission

and



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POLE BUILDING shall mean a structure built with no foundation or footings, using poles embedded directly in the ground as its primary support to hold metal, plastic, fiberglass or wood covering to form the building.

POLICY shall mean a statement or document of the County, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.

PORCH, UNENCLOSED shall mean a roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.

PORTABLE ON-DEMAND STORAGE FACILITY shall mean a type of storage service that provides portable storage containers that can be delivered and picked up on demand.

PREMISES shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.

PRESERVATION shall mean the act of protecting an area, parcel of land, or structure from being changed or modified from the present character to another that is not representative of a specific period or condition.

PRESERVATION EASEMENT shall mean a right, whether stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of preserving the historical, architectural, archaeological, or cultural aspects of real property, or for such other historic preservation purpose as may qualify as a charitable contribution under the Internal Revenue Code.

PRIME FARMLAND shall mean land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, as mapped by the USDA Natural Resources Conservation Service (NRCS) or successor agency.

PRINCIPAL STRUCTURE shall mean the main building or structure on a lot, within which the main or primary use of the lot or premises is located.

PRINCIPAL USE shall mean the main use of land or structure, as distinguished from an accessory use.

4. Each operation type shall be classified in one of five levels according to the total number of A.U. in the operation at any one time. Levels will include:
 - Class I Facility = 301-1,000 animal units;
 - Class II Facility = 1,001-2,500 animal units;
 - Class III Facility = 2,501-5,000 animal units;
 - Class IV Facility = 5,001-10,000 animal units; and
 - Class V Facility = 10,001 or more animal units.
- A. LFOs having more than one type of feeding operation at one location shall be categorized according to the total number of animal units.
- B. LFOs having 301 animal units or more shall also locate at a distance as specified ~~under the ECH or Open Lots~~ in the following Table from a platted residential area, occupied dwelling, public park, recreational area, church, cemetery, religious area, school, historical site, and residential district.

Table 9.24.02 LFO Spacing and Distance

Size of Proposed LFO in Animal Units.		Setback from Non-farm, other Residence and/or other LFOs (miles)
Class I 301-1000	ECH	¼
	OPEN	½
Class II 1001 to 2500	ECH	½
	OPEN	¾
Class III 2501-5000	ECH	¾
	OPEN	1.0
Class IV 5001-10,000	ECH	1.0
	OPEN	1.25
Class V 10,000+	ECH	1.25
	OPEN	1.5

Note: The setbacks under this section shall increase by one-fourth (1/4) mile for each 5000 AU (or fractional portion thereof) of authorized capacity above 10,000 AU not to exceed a setback of 2 miles. No Class V LFO shall be located within two miles of a municipality.

ECH = Environmentally Controlled Housing

OPEN = Open Lot Operations

- 9.24.03 A management plan for the facility, acceptable to NDWEE and the Jefferson County Board, which provides for the proper disposal of animal waste and dead animals in a manner as not to contaminate ground water or any stream, creek or river.
- 9.24.04 Each facility use shall be engineered, constructed and operated utilizing best management practices to minimize odor, dust, flies, vermin and other problems and hazards to avoid environmental contamination.
- 9.24.05 Disposal and storage of livestock confinement facility/operation animal waste shall be in conformance with the following:
 1. There shall be no storage, or disposal, of livestock waste from a livestock confinement facility/operation upon land designated as wetlands by the United States Department of Agriculture, Farm Services Commission (or successor agency).
 2. Paunch waste disposal shall only be allowed in conformance with this regulation.
- 9.24.06 Zoning permits granted under this section shall be subject to review by the County Board if not in compliance with NDWEE regulations.

Solar Access Easement shall mean a right, expressed as an easement, covenant, condition, restriction or other property interest in any deed, will or other instrument executed by or on behalf of any landowner or in any order of taking, appropriate to protect the solar skyspace of a solar collector at a particularly described location to forbid or limit any or all of the following where detrimental to access to solar energy: structures on or above ground; vegetation on or above ground; or other activities. Such right shall specifically describe a solar skyspace in three-dimensional terms in which the activity, structures or vegetation are forbidden or limited or in which such an easement shall set performance criteria for adequate collections of solar energy at a particular location.

Solar Oriented Subdivision shall mean a subdivision in which a minimum of 65 percent of the lots are solar-oriented lots.

10.03.03 General Provisions Applying to ISCS and/or CSCS

The following provisions shall apply, typically, to two or more of the different solar conversion systems in this Section.

1. Agriculture: Solar panels used to provide power to agricultural irrigation wells, potable drinking wells, and other agricultural uses (not residence, barns, sheds) shall be exempt from these regulations.
2. For Commercial SCS: Applicant shall comply with specific requirements of the local fire department.
3. Maintenance:
All system and components shall be kept in operational condition, including appearance of all components; plus, the ground beneath the SCS shall be kept in a presentable manner based upon the ground cover decided.
4. Decommissioning:
All systems when they are no longer generating power and will no longer be used shall follow a decommissioning plan approved by the Jefferson County Board, as required by Section 10.05 below.
5. Repowering:
If any SCS is no longer operating for purposes of Repowering, replacement, or maintenance, Decommissioning provisions will not apply for up to six months. However, an SCS not operating or is operating at a substantially reduced capacity for more than six months will be considered abandoned and Decommissioning provisions will apply.
 - A. Repowering does not require a new Zoning Permit if the footprint of the SCS is the same or reduced. Any increase in the footprint of the facility will require a permit amendment.
6. Other Requirements:
 - A. Any applicant for a SCS project shall demonstrate they have met the requirements of the electric utility and will have in place an interconnection agreement with the electric utility.
 - B. Details shall be included of any proposed Battery Energy Storage Systems (BESS).
 - C. All CSCS operations shall have located at key access points signage stating specific language as outlined by the electric utility.
 - D. SCS may be installed in the floodway fringe subject to floodplain regulations, as may be amended from time to time, given that all components are installed a minimum of two feet (2') above base flood elevation and subject to written authorization of the Floodplain Administrator.
 - 1) No SCS shall be constructed in an identified Floodway.
7. Concentrated Solar Power (CSP) systems are prohibited within Jefferson County's jurisdiction.

3. **Height** of the solar collector and any mounts within an established solar farm shall not exceed 14 feet when oriented at maximum tilt.
4. **Minimizing adverse impacts**
 - A. The solar facility shall be designed and placed to minimize adverse visual and noise impacts on adjacent areas. Techniques such as screening, fencing, vegetation, trees, shrubs, and pollinator plantings can be used when included in the application documents.
 - 1) Solar farms with panels located at least two hundred (200) feet from an adjacent public road right-of-way, or adjacent property line, shall not require screening.
 - 2) Solar farms with panels located less than two hundred (200) feet from an adjacent public road right-of-way, or adjacent property line, must provide landscaping and/or trees to visually obscure the facility from the public road.
 - B. Agri-voltaics is encouraged for facilities located on prime farmland.
 - C. Fencing may be up to 8 feet in height, where specified on the approved site plan.
5. **Setbacks**, in addition to the underlying zoning, shall be no less than:
 - A. 200 feet to any property line of a non-participating property owner
 - B. ~~330 feet~~The setback to any residence of a non-participating property owner, measured from the nearest exterior wall of the residence, to any structure associated with the solar facility, ~~as necessary for the size of solar facility:~~
 - 1) ~~1/16 mile (330')~~ for a solar project of up to 40 acres in size;
 - 2) ~~1/8 mile (660')~~ for a solar project of up to 80 acres in size;
 - 3) ~~1/4 mile (1,320')~~ for a solar project of up to 160 acres in size;
 - 4) ~~1/2 mile (2,640')~~ for a solar project over 160 acres in size.
 - C. 10 feet to any other structure.
 - D. The underlying setback shall be required to the property line of any participating property owner.
 - E. One (1) mile setback from incorporated communities, State and Natural Resource District (NRD) recreation areas, schools, and churches.
 - F. 100 feet from any road right-of-way or road easement.
6. **Lot Coverage**

To support vegetation and wildlife habitat, and limit impervious surface, no more of any area may be covered (as defined) than:

 - A. No more than 50% of any legal lot.
 - B. No more than ~~40~~25% of prime farmland in any one Section of land.
 - C. Limits may be higher to meet bulk requirements of the zoning district.
7. **Safety and Inspections**
 - A. Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s) and either anti-glare or anti-reflective panels.
 - 1) The design of the solar energy system shall be in conformance with the Nebraska State Fire Marshal and Electrical Division requirements for inspection and licensing.
 - 2) The facility shall meet all requirements of the Federal Aviation Administration (FAA) to ensure safety of aviation.
 - B. The site shall be landscaped, finished, and maintained as specified in the Grading and Drainage plan and Vegetation Management plans.
 - C. The solar energy system shall comply with all applicable regulations of Jefferson County, Nebraska, so as to insure the structural integrity of such solar energy system.

Section 10.05 Discontinuation and Decommissioning

- 10.05.01 Each commercial-scale renewable energy generation facility shall submit a proposed Decommissioning Plan outlining the anticipated means and cost of removing the facility at the end of their serviceable life or upon being discontinued use.
1. The Decommissioning Plan shall include at minimum an estimate of the anticipated life of the project, anticipated costs and sources of financing for removing the facility and restoring the property, the method or process insuring decommissioning will be completed in a proper and timely manner, the anticipated manner in which the project will be decommissioned, and the time period in which decommissioning shall be completed.
- 10.05.02 A facility shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Jefferson County Zoning Administrator outlining the steps and schedule for returning the facility to service.
1. All facilities and accessory facilities shall be removed four (4) feet below ground level within eighteen (18) months of the discontinuation of use. This period may be extended by the Jefferson County Board of Commissioners following a written request by an agent of the owner of the facility.
- 10.05.03 Each facility shall have an approved decommissioning plan outlining the anticipated means and costs of removing each facility at the end of the serviceable life or upon becoming a discontinued use.
1. The cost estimates shall be made by a competent party, such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. Such person shall be approved by the Jefferson County Board of Commissioners.
 2. Cost estimates shall be gross cost of decommissioning, with no discount for potential theoretical value of recyclables.
 3. Such decommissioning plan and cost estimates shall be updated every five (5) years.
- 10.05.04 At the end of the facility's useful life, the entire site shall be restored in accordance with the requirements of this section within eighteen (18) months.
- 10.05.05 Form of Security Escrow
1. A surety bond or standby letter of credit (security), ~~cash escrow account~~ is required before the permit is approved to guarantee removal and restoration upon discontinuation, decommissioning or abandonment.
 - A. Bond or Letter of Credit requirements.
 - 1) The form of security is required prior to construction commencing.
 - 2) The security must be issued or confirmed by a bank with AA or equivalent rating by one of the three major rating agencies (Fitch, Moody's, or S & P) in the United States of America.
 - 3) The security shall be Irrevocable, clean and contain an evergreen clause (automatically renews annually).
 - B. The amount of the security escrow shall include the current gross cost of decommissioning and restoration and the permit holder shall be responsible for the holding/setup fee.
 - ~~C.~~ It shall be funded at a minimum of 10% increments annually until fully funded to satisfy the current projected decommissioning and restoration costs.
 - ~~D.~~ The amount required may change when projected costs are reviewed and updated every 5 years.
 - ~~E.~~ After being fully funded by year 10, the applicant shall continue to fund the security escrow at 3% of its value for the life of the project with repeated 5-year cost reviews and updates.

- FE. Any ~~securityescrow~~ amounts which are more than actual costs shall be returned to the Applicant within (90) days after the ~~facility has have~~ been fully decommissioned.
2. Upon transfer of any renewable energy facility permit, the permit holder shall submit proof that the escrow has been reassigned. The transfer of a facility permit must be filed with the Register of Deeds and evidence of that filing shall be presented to the Jefferson County Planning and Zoning Administrator and Jefferson County Board of Commissioners.

Article 15: Legal Status

Section 15.01 Severability

Should any article, section or provision of this Resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 15.02 Purpose of Catch Heads

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Resolution.

Section 15.03 Repeal of Conflicting Resolutions

All Resolutions or parts of Resolutions in conflict with this Resolution, or inconsistent with the provisions of this Resolution, are hereby repealed to the extent necessary to give this Resolution full force and effect.

Section 15.04 Effective Date

This Resolution shall take effect and be in force from and after its passage and publication according to law.

APPROVED AND ADOPTED by the Jefferson County, Nebraska, Board of Commissioners

This _____ day of _____, ~~2025~~2026

_____ (CHAIR, COUNTY BOARD OF COMMISSIONERS)

(Seal)

ATTEST:

_____ (COUNTY CLERK)