

OFFICE OF THE BURT COUNTY CLERK
Minutes of the Burt County Board of Supervisors
April 28, 2025
TEKAMAH NE 68061

The Burt County Board of Supervisors met in regular session on Monday, April 28, 2025, in the Boardroom of the Burt County Courthouse in Tekamah, Nebraska, pursuant to adjournment of their last meeting. Notice of the meeting was given in advance thereof by Publication in the Lyons Mirror-Sun (4-24-2025), upon a 1st floor bulletin board within the courthouse and on the County's Website. A copy of the proof of publication is on file in the office of the County Clerk. The following members were present: Gary 'Bird' Swanson, Jeff Kutchera, Sam Titus, Carl Pearson, Jay W. Johnson, Paul Richards and Ted Connealy.

The meeting opened with the pledge of allegiance at 9:00 A.M. Chairman Connealy informed the public that the Open Meeting Act was posted.

The agenda was approved; upon motion by Kutchera, seconded by Johnson. Roll Call Vote: Ayes – Swanson, Kutchera, Titus, Pearson, Johnson, Richards and Connealy. Nays- none.

The minutes of the 4/9/2025 Board of Supervisors meeting: Swanson made a motion to correct the minutes; Solar Energy Conversion Systems C. 3) d. Setbacks for Solar Panels must be 83' from the property line or 200' from the exterior wall of a residence, whichever is greater. The resident(s) would be able to sign a waiver, Pearson seconded the motion to correct the minutes and motion passed By Roll Call Vote: Ayes – Swanson, Kutchera, Titus, Pearson, Johnson and Richards. Nays- none. Connealy abstained. Motion was then made to approve the 4/9/2025 minutes as corrected; upon motion by Richards, seconded by Kutchera. Roll Call Vote: Ayes – Swanson, Kutchera, Titus, Pearson, Johnson, Richards and Connealy. Nays- none. Motion passed, minutes of 4/9/2025 meeting were approved as corrected.

The claims for April in the amount of \$707,096.31, including \$161,504.05 for payroll, were read, audited, warrant drawn, and checks generated on the respective funds on motion by Titus, seconded by Kutchera. Roll Call Vote: Ayes – Swanson, Kutchera, Titus, Pearson, Johnson, Richards and Connealy. Nays- none.

The following claims were approved:

ADAM TRIPP	ATTY FEES	703.00
ALBIN LAW OFFICE	ATTY FEES	261.25
ANDY'S QUICK SHOP	FUEL	198.29
APPLIED CONNECTIVE TECHNOLOGIES LLC	IT SUPPORT/MONITOR	5,443.35
BLACK HILLS ENERGY	UTILITES	321.78
BOMGAARS -COURTHOUSE	SUPPLIES	202.74
BRANIFF SERVICE INC	FUEL/REPAIR	2,562.05
BRENNEIS INSURANCE AGENCY INC	P&C INS. ANNUAL	265,852.00
BRUMMOND DISPOSAL	GARBAGE	225.00
BURT COUNTY CLERK	SUPPLIES	20.25
BURT COUNTY COURT	COURT FEES	90.50
BURT COUNTY DISTRICT COURT	COURT FEES	72.00
BURT COUNTY PUBLIC POWER DIST	UTILITES	184.50
BURT COUNTY SHERIFF	SERVICE FEES	468.92
CANON FINANCIAL SERVICES	OFFICE EQUIP	572.98
CASS PLUMBING & HVAC LLC	BLDG REPAIRS	90.00
CENTURY LINK	911	322.96
CIOX HEALTH	COURT CASE	80.49
CITY OF TEKAMAH	UTILITES	154.00

CLARK PEST AND TERMITE CONTROL	MAINTENANCE	75.00
CLASSIC CLEAN CARWASH	FLEET	146.60
CLEARFLY	PHONES	1,447.58
COLONIAL RESEARCH CHEMICAL CORP	SUPPLIES	835.00
CONSTELLATION NEW ENERGY GAS DIV	UTILITES	510.32
CUBBY'S	FUEL	1,024.01
CUMING COUNTY INDUSTRIES	SUPPLIES	170.76
DAS STATE ACCOUNTING-CENTRAL FIN.	TELE TYPE	411.60
DAS STATE ACCTG -CENTRAL FINANCE	SOFTWARE	258.75
DECATUR EXPRESS - KB'S MINI MART	FUEL	1,442.64
DEREK WARNER	TRAINING/MILE	130.20
DODGE COUNTY	DIST 6 PROBATION	3,408.20
DREW LAW FIRM PC LLO	ATTY FEES	7,581.05
EAKES OFFICE PLUS	SUPPLIES	633.21
FIRST CONCORD BENEFITS GROUP LLC	ADMIN FEE	786.65
FIRST NATIONAL BANK OF OMAHA	SUPPLIES	965.93
GARY SWANSON	CHECKING ROADS	57.40
GENE STEFFY	FLEET REPAIR	205.03
GREAT AMERICA FINANCIAL SVCS	SUPPLIES	177.63
HEARTLAND TIRE	FLEET	564.00
HIRCHERT-OLSEN AUTO SERVICE INC	FLEET	774.99
HOMETOWN LEASING	OFFICE EQUIP	191.13
IDEAL WHEEL	FLEET	373.62
J.F. AHERN CO	BLDG FIRE INSPECT	276.00
JACK'S UNIFORMS & EQUIPMENT	SUPPLY/EQUIP	253.74
JEFF KUTCHERA	CHECKING ROADS	179.20
JENNIFER HANSEN	MILEAGE	88.90
JOHNSON & PEKNY, L.L.C.	ATTY FEES	1,406.00
JOSEPH M SMITH, ATTORNEY	COURT COSTS	123.50
KATHY RAY	OFFICE SUPPORT	114.75
KRAVIEC MAURSTAD LAW, P.C., L.L.O.	CHILD SUPPORT	2,010.22
LA QUINTA INN AND SUITES	WORKSHOP	374.85
MADISON COUNTY DISTRICT COURT	COURT CASE	100.00
MADISON COUNTY SHERIFF	COURT CASE	30.41
MCH HEALTH SYSTEM	JAIL MEDICAL	3,021.64
MID AMERICA ENTERPRISES LLC	SUPPLIES	64.24
MID-AMERICAN BENEFITS INC	INSURANCE	20,224.00
MIPS INC	SOFTWARE	1,999.13
MIPS INC - COUNTY COURT	SOFTWARE	68.00
NE NEBR ECONOMIC DEV DIST	ANNUAL	925.00
NEBR HEALTH & HUMAN SERVICES SYSTEM	SERVICES/LODGING	93.00
NEBRASKA PUBLIC POWER DISTRICT	UTILITES	1,009.32
OAKLAND EXPRESS	FUEL	53.11
OAKLAND INDEPENDENT/LYONS MIRROR	PUBLISHING	361.42
ONE OFFICE SOLUTION	SUPPLIES	987.23
OPTK NETWORKS	INTERNET	1,285.98
PAUL RICHARDS	CHECKING ROADS	112.00
PELAN FUNERAL SERVICES INC	AUTOPSY	485.00
PENNY A. WARREN	MILEAGE	102.20
PHYSICIANS LABORATORY PC	SUPPLY/EQUIP	30.00
POTTAWATTAMIE COUNTY SHERIFF	COURT CASE	41.00
RASMUSSEN MECHANICAL SERVICES	SUPPLIES	987.20
RAY O'HERRON	SUPPLIES	1,636.61
REGION IV INC	QUARTERLY	3,305.50
SAMUEL TITUS	CHECKING ROADS	68.60
SAVE MORE MARKET	SUPPLIES	283.72
SCOTT BURGETT	CPR TRAINING	180.00
SCOTT'S HARDWARE	SUPPLIES	412.33
SECURITY EQUIPMENT INC	SUPPLY/EQUIP	1,146.60

STACEY KEYS	MILEAGE	72.83
STAMP FULFILLMENT SERVICES	POSTAGE ENVELOPES	451.75
STRYKER SALES LLC	SUPPLY/EQUIP	900.00
THE APOTHECARY SHOP	JAIL MEDICAL	83.87
THEODORE CONNEALY	CHECKING ROADS	44.80
THURSTON COUNTY SHERIFF	JAIL	2,880.00
TK ELEVATOR CORPORATION	MAINTENANCE	344.49
TORY PENNY	MILEAGE	102.20
TRAVELERS- DEDUCTIBLE	INSURANCE	561.50
VERIZON WIRELESS	EQUIPMENT	852.16
VISUAL EDGE IT, INC	SUPPLY	107.55
WARNE CHEMICAL & EQUIPMENT CO	SUPPLIES	323.07
WASHINGTON COUNTY BANK	BOX	45.00
WASHINGTON COUNTY SHERIFF	JAIL	5,154.00
ARBY'S BODY SHOP LLC	FLEET REPAIR	300.00
BOMGAARS SUPPLY INC – ROAD	SUPPLIES	606.50
BRUMMOND COUNTRY DISPOSAL	GARBAGE	90.00
BUDDIES MINI MART, LLC	FUEL	318.84
CITY OF LYONS	UTILITES	392.65
CITY OF OAKLAND	UTILITES	24.02
FARMERS PRIDE	FUEL	3,971.26
FILTER CARE OF NEBRASKA, INC.	SUPPLY	43.35
FIRST NATIONAL BANK OF OMAHA ROADS	SUPPLIES	19.99
K-C PARTS & REPAIR	FLEET	294.10
LOGEMANN AUTO PARTS & MACHINE LLC	PARTS	6.99
MHC KENWORTH -OMAHA	FLEET	277.99
MIDWEST SERVICE AND SALES CO	SUPPLY	1,868.75
MIDWEST SERVICE CO	FUEL	6,522.66
NMC	FLEET	5,186.37
RDO TRUCK CENTERS, LLC	FLEET	5,462.27
SHAMBURG AUTO SUPPLY	REPAIR	135.05
STALP GRAVEL CO	MATERIALS	27,918.41
STEINY'S GENERAL STORE	FUEL	23.75
TRI-STATE COMMUNICATIONS INC	RADIO	158.50
VERIZON CONNECT FLEET USA LLC	FLEET TRACKING	454.97
VILLAGE OF DECATUR	UTILITES	219.08
WELDON PARTS OMAHA	PARTS/REPAIR	193.00
CENTURYLINK (HARDWARE WARRANTY)	911	707.20
GEOCOMM, INC	911	4,385.00
LANGUAGE LINE SERVICES	911	59.03
NORTHEAST NEBR TELEPHONE CO	911	130.98
AFLAC	EMPE PD ADDL	371.01
ALLSTATE	EMPE PD ADDL	42.01
BLUE CROSS & BLUE SHIELD	INSURANCE	51,721.30
FIRST NAT'L BANK-NORTHEAST-EFPTS	FEDERAL TAXES	44,930.68
GLOBE LIFE LIBERTY NATIONAL DIV	EMPE PD ADDL	669.20
MADISON NATIONAL LIFE INS. CO, INC	EMPE PD ADDL	56.56
NATIONWIDE RETIREMENT SOLUTIONS	EMPE PD ADDL	150.00
RETIREMENT PLANS DIV. OF AMERITAS	RETIREMENT	23,729.92
STATE TAX COMMISSIONER	STATE TAXES	6,690.02
VISION SERVICE PLAN (CT)	EMPE PD ADDL	746.21
COLONIAL LIFE AND ACCIDENT INS CO	EMPE PD ADDL	57.79
LVNV FUNDING, LLC	GARNISHMENT	65.87
NEBR CHILD SUPPORT PAYMENT CTR	GARNISHMENT	830.00

COMMUNICATION: Northeast Nebr. Eco Devo District – Burt County’s Return on Investment report – on file.

Zoning: *Ann Chytka, Planning and Zoning Administrator*
Burt County Zoning Regulations - Section 6.15 Solar Energy Conversion Systems. Resolution 2025-03: motion to adopt by Titus, seconded by Richards. Motion Passed By Roll Call Vote as follows: Ayes- Swanson, Kutchera, Titus, Pearson, Johnson and Richards. Nays – none. Connealy Abstained. It was cited that per #5. on the Resolution, conditional use permit applications can now be accepted for Solar by the Burt County Planning and Zoning office. See pages 6-24 of these minutes for full Resolution and Exhibits.

Congressional District #3 Updates: *Heidi Borg, Agricultural Liaison*
 U.S. Congressman Adrian Smith’s office updates from Nebraska Congressional District #3.

P&C Insurance- Deductible buy-down: *Kevin Brenneis, Brenneis Insurance Agency* Kevin shared deductible buy down options for wind/hail coverage; Supervisor Pearson made a motion to purchase a (2) buydown plans; (1) for the Courthouse building (\$268,667.11 per occurrence to \$5,000.00 per occurrence) for cost of \$21,179.62 + fees. (2) for the five County sheds (\$250,000.00 per occurrence to \$5,000.00 per occurrence) for cost of \$24,373.34 + fees. Johnson seconded the motion, Roll Call Vote: Ayes – Swanson, Kutchera, Titus, Pearson, Johnson, Richards and Connealy. Nays – none. Buydowns will be purchased for all County owned structures; plan year 5/1/2025 – 4/30/2026.

BURT COUNTY SOLAR update:
 Present speaking: Brian Boerner Senior Vice-President, Development with Sandhills Energy and Eric Case Construction Manager -gave an update on the 250-megawatt project. The current CUP is set to expire on April 30, 2025, unless construction had started. They are in the works to get the lay-down yard set (the blizzard clean up caused a delay with that). The project is underway at this point. A power purchase agreement has been secured with NPPD, and interconnection agreements are complete. Timeline was reported as follows: construction prep and substation installation -spring/summer 2025; construction – Fall 2025 after harvest; full install schedule anticipated to be completed – Q1 to Q3, 2027.

ROADS: *Ann Chytka, Highway Superintendent*
BIDS for 2025 Pavement Preservation Project(s), C-11(450). Josh Keithley with Midwest Engineering was present to advise.

C-11(450)	approx. 15.2 mi. of armor coat; approx. 7.3 mi. of scrub mastic surface seal; approx. 4.5 mi. of concrete crack and joint sealing; approx. 33.4 mi. of pavement marking		
	Hartan, IA	Modale, IA	Marysville, KS
	Sta-Bilt Constr.	Midwest Coatings	Hall Brothers
Armor Coat	388,317.77	407,543.70	
Scrub Mastic			202,994.28
Sealing Cracks		118,939.90	
Paint Striping		14,213.60	

Bids awarded to: Sta-Bilt for Armor Coat; Midwest Coatings for Crack Sealing & Paint Striping; Hall Brothers for Scrub Mastic. Motion to award bids by Richards and Kutchera; Approved By Roll Call Vote: Ayes – Swanson, Kutchera, Titus, Pearson, Johnson, Richards and Connealy. Nays – none.

The board advised Chytka to move forward with bidding for reclamation of (3) areas: Co.Rd M, Co.Rd. 3, Co.Rd. L. Midwest Engineering will advise.

Public Comment: Gregg Smith, rural Lyons- comment on setbacks for Solar.

There being no further business to come before the Board at this time, the meeting adjourned upon motions by Pearson and Titus at 10:27 A.M.

Next Meeting: Wednesday, May 14, 2025 @ 9:00 A.M.

ATTEST: SARAH J. FREIDEL
BURT COUNTY CLERK

TED CONNEALY, CHAIRMAN
BURT COUNTY BOARD OF SUPERVISORS

See
Resolution 2025-03 and Exhibits
pages 6 - 24

These minutes are not the official record and may be corrected. A copy of the approved official minutes is available to the public at the Clerk's Office.

RESOLUTION #2025-03
Burt County Zoning Regulations
Amend Section 6.15 relating to Solar Energy Conversion Systems

WHEREAS, in August of 2019, the Burt County Board of Supervisors did adopt a revised comprehensive plan for the 2019 through 2029 calendar years. Included therein are goals for the county relating to solar and wind energy development;

WHEREAS, on January 12, 2021, the Burt County Board of Supervisors did hold a public hearing and did adopt by resolution (2021-03) zoning regulations to add Section 6.15 (Solar Energy Conversion Systems) in the County's zoning jurisdiction;

WHEREAS, on August 9, 2022, the Burt County Board of Supervisors did hold a public hearing and did adopt by resolution (2022-13) updating ARTICLE VI-SUPPLEMENTAL REGULATIONS, ARTICLE VII-ADMINISTRATION AND ENFORCEMENT, ARTICLE VIII-BOARD OF ADJUSTMENT, ARTICLE IX- AMENDMENTS, AND ARTICLE X- LEGAL STATUS PROVISIONS (exhibit A)

WHEREAS, on January 28, 2025, the Board of Supervisors of Burt County, Nebraska recommended further investigation into the County's zoning regulations relating to Solar Energy Conversion Systems and placed a 120 day directive advising the Zoning Administrator to not accept any applications for Conditional Use Permits for Solar Facilities (Solar Farms) in Burt County and during the 120 days the Planning Commission would review Section 6.15 Solar Energy Conversion Systems (starting on page 144 of our current regulations). A committee of (3) three Burt County Board members (Jeff Kutchera, Carl Pearson, and Paul Richards) shall come up with a suggested list of items within Section 6.15 to be reviewed by the Planning Commission.;

WHEREAS, on February 3, 2025, the Planning Commission of Burt County, Nebraska did discuss and again recommend further investigation into the County's zoning regulations relating to Section 6.15 Solar Energy Conversion Systems;

WHEREAS, on March 3, 2025, the Planning Commission of Burt County, Nebraska did further discuss and again recommend further investigation into the County's zoning regulations relating to Section 6.15 Solar Energy Conversion Systems;

WHEREAS, on April 7, 2025, the Planning Commission of Burt County, Nebraska did hold a public hearing to discuss the final recommendations relating to solar energy systems, before submitting to the Burt County Board of Supervisors.

WHEREAS, on April 9, 2025, the Burt County Board of Supervisors held a public hearing to discuss Section 6.15 Solar Energy Conversion Systems zoning regulations;

WHEREAS, on April 28, 2025, the Burt County Board of Supervisors did further discuss and recommend the final Section 6.15 to be attached to this resolution as Exhibit B.

NOW THEREFORE BE IT RESOLVED, by the Burt County Board of Supervisors that:

1. The findings set forth above are incorporated herein, and,
2. On January 28, 2025, the Burt County Board of Supervisors met and recommended further investigation in Section 6.15 by the Planning Commission. The Planning Commission, on April 7, 2025, sent final recommendation to the Board of Supervisors.
3. On April 9, 2025, The Burt County Board of Supervisors did hold a public meeting to discuss the final recommendations from the Planning Commission on Section 6.15 (Solar Energy Conversion Systems) in Burt County Zoning Regulations.
4. The public hearing and meeting had advanced notice as required by Nebraska law and conformed with the Nebraska Opens Meeting Act, and,

5. Upon consideration of all matters presented to the Board, the Board of Supervisors did vote to amend the Burt County Zoning Regulations relating to Solar Energy Conversion Systems in the County’s jurisdiction and to reopen applications for the same, and,
6. A copy of the amended regulation is attached hereto as Exhibit “A” and incorporated herein by reference, and,
7. The Board does hereby approve the amended regulations attached hereto as Exhibit “B” and the regulations are hereby adopted on the date specified below.
8. This resolution shall be in full force and effect from and after its passage.

DATED this 28th day of April 2025 at Tekamah, Nebraska.

ATTEST: Sarah J Freidel
Burt County Clerk

Ted Connealy
Board Chairperson

(Exhibits A & B)



Section 6.15 Solar Energy Conversion Systems

A. Intent.

This ordinance promotes the accommodation of on-site solar energy conversion systems within Burt County’s zoning jurisdiction, with the intent to reduce energy consumption, regulate necessary equipment, and promote adequate access to sunlight. This ordinance also addresses utility-scale solar energy conversion systems, or “solar facilities”, intended for the sale of electricity to utilities, industries, and/or businesses. Solar energy conversion systems, excluding solar facilities, shall be permitted in all zoning districts as a permitted use.

B. Personal Scale Solar Energy Conversion System Requirements.

- 1) A solar energy conversion system shall provide power, solely, for the principal use and/or accessory use of the property on which the solar energy system is located.
- 2) The installation and construction of a roof-mounted solar energy system shall be subject to the following development and design standards:
 - a. A roof or building mounted solar energy conversion system may be mounted on a principal or accessory building.
 - b. Any height limitations of the zoning district within shall not be applicable to solar collectors provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
 - c. Placement of solar collectors on flat roofs shall be allowed, provided that panels do not extend horizontally past the roofline.

- 3) The installation and construction of solar energy conversion system shall be subject to the following development and design standards:
 - a. The height of the solar collector and any mounts shall not exceed fifteen (15) feet when oriented at maximum tilt.
 - b. The surface area of a ground- or pole-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
 - c. The minimum solar energy conversion system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.
 - d. All power transmission lines from a ground-mounted solar energy system to any building or other structure shall be located in proper accordance with local building/electrical code.
 - e. The collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.
 - f. For all roof-mounted systems other than a flat roof, the elevation must show the tilt of the solar collector and the slope of the finished roof surface on which it is mounted.
 - g. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building.
- 4) All electrical equipment associated with the operation of solar energy conversion systems shall comply with the setbacks specified for accessory structures in the underlying zoning districts.
- 5) Solar panel placement should be prioritized to minimize or negate any glare onto nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar energy conversion system.
- 6) A solar energy conversion system shall not be constructed until a building/zoning permit has been approved and issued.
- 7) Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

C. Solar Facilities (Solar Farm)

- 1) The height of the solar collector and any mounts within an established solar farm shall not exceed twenty (25) feet when oriented at maximum tilt.

2) Solar Farm Applicant Requirements

- a. A site plan denoting the dimensions of the parcel, proposed solar farm location (arrangement of panels), distance from the proposed area to all property lines and location of the driveway(s). No portion of the system area may encroach into the required setbacks.
- b. Horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the property and its relationship to adjacent roads or highways.
- c. If applicable, the applicant must apply and receive from the Nebraska Department of Transportation (NDOT) authorization for a private driveway or access easement from a State or Federal highway, or submit documentation from NDOT that the existing site access is acceptable for the required use prior to final project approval.

3) Installation and Design

- a. Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).
- b. All solar farms shall meet all requirements of the Nebraska State Fire Marshal and Electrical Division.
- c. Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the building for a roof-mounted system or on the property for a ground-mounted system, including the property lines.

D. Safety and Inspections

- 1) The design of the solar energy conversion system shall be in conformance with the Nebraska State Fire Marshal and Electrical Division requirements for inspection and licensing. A building permit reviewed by the Burt County staff/Planning Commission shall be obtained for a solar energy system.
- 2) The solar energy system shall comply with all applicable regulations of Burt County, so as to ensure the structural integrity of such solar energy system.
- 3) Any connection to the public utility grid must be approved by the local public utility.
- 4) If solar storage batteries are included as part of the solar collector system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the County and any

other applicable laws and regulations relating to hazardous waste disposal shall apply.

- 5) Unless otherwise specified, the property owner of record will be presumed to be the responsible party for owning and maintaining the solar energy system.

E. Decommissioning Plan.

- 1) A Decommissioning Plan for installed facilities and infrastructure must be submitted to the Planning Commission at the time of permit application.
 - a. A Decommissioning Plan must include:
 - i. The manner in which the facility will be decommissioned; and
 - ii. A decommissioning schedule;
 - iii. A detailed estimate of the cost of decommissioning a solar generation facility by a professional engineer licensed in the state of Nebraska that shall at minimum include:
 - aa. Dismantling and removal of all towers, turbine generators, transformers, overhead cables, and debris of the solar generation facility;
 - bb. Removal of underground cables to a depth of forty-eight (48) inches;
 - cc. Removal of foundations, buildings, and ancillary equipment to a minimum depth of one hundred twenty (120) inches below grade;
 - dd. Site restoration and reclamation to the approximate original topography that existed prior to the construction of the facility with grading, topsoil, re-spread over the disturbed areas at a depth similar to that in existence prior to the disturbance, and reseedling that achieves the same utility of native vegetation of the surrounding areas to prevent adverse hydrological effects, unless the Commission approves a signed request by the applicable landowner, identifying the surface features the land owner prefers to remain in place and a valid reason the landowner prefers those features to remain;
 - ee. Repairs and construction from damage to public roads, culverts, and natural drainage ways resulting directly from the decommissioning of a solar generation facility;

- ff. All access roads shall be removed, cleared, and graded, unless a property owner agreement indicates otherwise or the County, through official action of County Commissioners, agree to keep the road;
 - gg. The current salvageable value of the facility, as determined by an independent evaluator;
 - hh. All expenses related to the decommissioning shall be the responsibility of the solar generation facility owner, including any expenses related to releasing any easements.
- iv. Copy of as-built plans including structural and electrical drawings of all facilities and all disturbances associated with the solar generation facility. The as-built plans must be certified by a professional engineer licensed in the state of Nebraska that the information included on depicted as-built plans is complete and accurate.
 - v. The Commission may reject a decommissioning plan if:
 - aa. It finds that the plan does not provide for decommissioning as defined in Rule; and
 - bb. The plan does not adequately describe the cost of decommissioning.

F. Decommissioning Bond.

A decommissioning performance surety bond is required for all approved conditional use permits granted for the installation of Commercial Solar Farms/Facilities. The surety bond must be transferable upon sale of the facilities to any new owner and may not be refunded to any owner/operator of said bond until decommissioning has been satisfactorily completed or transfer to the Burt County, Nebraska Planning Commission.

G. Determination of Bond Amount.

- 1) The Commission shall require submission of a bond by the owner in the amount of the estimated cost to the Commission if it had to perform the decommissioning and reclamation work required of an owner. This amount is based on the estimated cost to the Commissions to ensure compliance with this Section.
- 2) The bond amount shall be based on:
 - a. The estimated costs submitted by the owner in accordance with this rule and costs estimated by using current machinery production handbooks and publications or other document costs acceptable to the Commission.

- b. Estimated costs to the Commission that may arise from applicable public contracting requirements or the need to bring personnel and equipment to the facility after its abandonment by the owner to perform the decommissioning and reclamation work.
 - c. Estimated costs to the Commission that may arise from management, operation, and maintenance of the site upon temporary or permanent operator insolvency or abandonment, until full bond liquidation can be affected;
 - d. Unless the provisions of the bond provide otherwise, the line items in the bond calculations are estimates only and are not limits on spending of any part of the bond to complete any particular task subsequent to forfeiture of the bond or settlement in the context of bond forfeiture proceedings; and
 - e. Such other cost information as may be required by or available to the Commission.
- 3) In determining the amount of a bond required in accordance with the rule, the Commission shall consider:
- a. The character and nature of the site where the solar generation facility is located; and
 - b. The current market salvage value of the solar generation facility.

H. Bond Deadline.

- 1) Except as provided in 3. and 4. below, and in accordance with the rule, the owner shall submit to the Commission a bond payable to Burt County, Nebraska in a form acceptable by the Commission and in a sum determined by the Commission, conditioned on the faithful decommissioning of the solar generation facility.
- 2) Except as provided in 3. and 4. below:
- 3) If a solar generation facility commenced commercial operation on or before January 1st, 2019.
- 4) If a solar generation facility is repurposed, as determined by the Commission in consultation with the owner, any existing bond must be maintained, or a new bond acquired and submitted.

I. Penalties for Failure to Submit Bond.

- 1) If an owner does not submit an acceptable bond to the Commission within the timeframe required by this rule, the Commission may assess an administrative penalty of not more than fifteen hundred dollars (\$1,500), and an additional administrative penalty of not more than fifteen hundred dollars (\$1,500) for each day the bond is late.
- 2) An owner may appeal the Commission's penalty assessment to the board within twenty (20) days after receipt of written notice of the penalty.

J. Adjustment of Bond Amount.

- 1) Once every five (5) years, an owner may request a reduction of the required bond amount upon submission of evidence to the Commission proving that decommissioning work, reclamation, or other circumstances will reduce the maximum estimated cost to the Commission to complete decommissioning and therefore warrant a reduction of the bond amount.
- 2) The Commission shall review each decommissioning plan and bond amount every five (5) years. The performance bond must be increased, as required by the Commission, if the cost to decommission a solar generation facility increases. The Commission shall notify the owner of any proposed bond increase and provide the owner an opportunity for an informal conference on the proposal. The owner shall increase the bond within ninety (90) days of receiving the Commission's revised bond amount.

K. Surety Bonds.

- 1) Surety bonds are subject to the following requirements:
 - a. The Commission may not accept a surety bond in excess of ten percent (10%) of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant.
 - b. The Commission may not accept surety bonds from a surety company for any owner in excess of three (3) times the surety's maximum single obligation as provided in A. above.
 - c. The Commission may not accept a surety bond from a surety company for any owner unless that surety is registered with the state auditor and is listed in the United States Department of the Treasury Circular 570 as revised.
 - d. A power of attorney must be attached to the surety bond.

- e. The surety bond must provide a requirement and a mechanism for the surety company to give prompt notice to the Commission and the owner of:
 - i. Any action alleging bankruptcy or insolvency of the surety or violation that would result in suspension or revocation of the license of the surety;
 - ii. Cancellation by the owner; and
 - iii. Cancellation or pending cancellation by the surety.
- f. Upon a determination by the Commission that a surety is unable to comply with the terms of the bond, the owner of a solar generation facility shall be deemed to be without bond coverage. The owner shall replace the bond coverage within ninety (90) days of notice from the Commission.
- g. Whenever operations are abandoned concurrent with the cancellation of the bond, the Commission shall forfeit the bond and decommission the site.

L. Certificate of Deposit.

- a. The Commission may accept as bond an assignment of a certificate of deposit in a denomination not in excess of two hundred fifty thousand dollars (\$250,000), or the maximum insurable amount as determined by Federal Deposit Insurance Corporation (FDIC), whichever is less. The Commission may not accept a combination of certificates of deposit for a solar generation facility in excess of that limit.
- b. The Commission may only accept automatically renewable certificates of deposit issued by a bank insured by the FDIC or a credit union insured by the National Credit Union Administration (NCAU.)
- c. The Commission shall require the owner to deposit sufficient amounts of certificates of deposit, to assure that the Commission will be able to liquidate those certificates prior to maturity, upon forfeiture, for the amount of the bond required by rule IV and rule VIII.
- d. The Commission shall require that each certificate of deposit be made payable to or assigned to the Commission, both in writing and in the records of the bank or credit union issuing the certificate. The Commission shall require banks or credit unions issuing these certificates to waive all rights of setoff or liens against these certificates.

M. Effect of Forfeiture.

- a. The written determination to forfeit all or part of the bond, including the reasons for forfeiture and the amount to be forfeited, is a final decision by the Commission.

- b. The Commission may forfeit any or all bonds deposited for an entire solar generation facility. Liability under any bond, including separate bond increments or indemnity agreements applicable to a single owner must extend to the owner's entire solar generation facility.
- c. In the event the estimated amount forfeited is insufficient to pay for the full cost of decommissioning and reclamation, the owner shall be liable for the remaining costs. The Commission may complete or authorize completion of decommissioning of the bonded area and may recover from the owner all costs of decommissioning in excess of the amount forfeited.

N. Appeals.

If the owner of a solar energy system is found to be in violation of the provisions of this Ordinance, appeals should be made in accordance with the established procedures of the Burt County Zoning Regulations.

Section 6.15 Solar Energy Conversion Systems

Exhibit B
Resolution 2025-03

A. Intent.

This regulation promotes the accommodation of on-site solar energy conversion systems within Burt County's zoning jurisdiction, with the intent to reduce energy consumption, regulate necessary equipment, and promote adequate access to sunlight. This regulation also addresses utility-scale solar energy conversion systems, or "solar facilities", intended for the sale of electricity to utilities, industries, and/or businesses. Solar energy conversion systems, excluding solar facilities, shall be permitted in all zoning districts as a permitted use.

B. Personal Scale Solar Energy Conversion System Requirements.

- 1) A solar energy conversion system shall provide power, solely, for the principal use and/or accessory use of the property on which the solar energy system is located.
- 2) The installation and construction of a roof-mounted solar energy system shall be subject to the following development and design standards:
 - a. A roof or building mounted solar energy conversion system may be mounted on a principal or accessory building.
 - b. Any height limitations of the zoning district within shall not be applicable to solar collectors provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
 - c. Placement of solar collectors on flat roofs shall be allowed, provided that panels do not extend horizontally past the roofline.
- 3) The installation and construction of solar energy conversion system shall be subject to the following development and design standards:
 - a. The height of the solar collector and any mounts shall not exceed fifteen (15) feet when oriented at maximum tilt.
 - b. The surface area of a ground- or pole-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
 - c. The minimum solar energy conversion system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.
 - d. All power transmission lines from a ground-mounted solar energy system to any building or other structure shall be located in proper accordance with local building/electrical code.

- e. The collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.
 - f. For all roof-mounted systems other than a flat roof, the elevation must show the tilt of the solar collector and the slope of the finished roof surface on which it is mounted.
 - g. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building.
- 4) All electrical equipment associated with the operation of solar energy conversion systems shall comply with the setbacks specified for accessory structures in the underlying zoning districts.
 - 5) Solar panel placement should be prioritized to minimize or negate any glare onto nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar energy conversion system.
 - 6) A solar energy conversion system shall not be constructed until a building/zoning permit has been approved and issued.
 - 7) Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

C. Solar Facilities (Solar Farm)

- 1) The height of the solar collector and any mounts within an established solar farm shall not exceed twenty (25) feet when oriented at maximum tilt.
- 2) Solar Farm Applicant Requirements
 - a. A site plan denoting the dimensions of the parcel, proposed solar farm location (arrangement of panels), distance from the proposed area to all property lines and location of the driveway(s). No portion of the system area may encroach into the required setbacks.
 - b. Horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the property and its relationship to adjacent roads or highways.
 - c. If applicable, the applicant must apply and receive from the Nebraska Department of Transportation (NDOT) authorization for a private driveway or access easement from a State or Federal highway, or submit documentation from NDOT that the existing site access is acceptable for the required use prior to final project approval.
 - d. Nameplate Capacity Tax will be addressed in the Conditional Use Permit to ensure

its collection throughout the life of the project.

3) Installation and Design

- a. Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).
- b. All solar farms shall meet all requirements of the Nebraska State Fire Marshal and Electrical Division.
- c. Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the building for a roof-mounted system or on the property for a ground-mounted system, including the property lines.
- d. Setbacks for Solar Panels must be 83' from the property line or 200' from the exterior wall of a non-participating residence, whichever is greater. The non-participating would be able to sign a waiver to reduce the setbacks.

D. Safety and Inspections

- 1) The design of the solar energy conversion system shall be in conformance with the Nebraska State Fire Marshal and Electrical Division requirements for inspection and licensing. A building permit reviewed by the Burt County staff/Planning Commission shall be obtained for a solar energy system.
- 2) The solar energy system shall comply with all applicable regulations of Burt County, so as to ensure the structural integrity of such solar energy system.
- 3) Any connection to the public utility grid must be approved by the local public utility.
- 4) If solar storage batteries are included as part of the solar collector system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the County and any other applicable laws and regulations relating to hazardous waste disposal shall apply.
- 5) Unless otherwise specified, the property owner of record will be presumed to be the responsible party for owning and maintaining the solar energy system.

E. Retention of Expert

- 1) The County Board of Supervisors may hire an engineer and/or expert to oversee all aspects of the project including, but not limited to, conditional use permit application, roads, application requirements, electrical, and any other process that occurs during preconstruction, construction, decommissioning, and reclamation. The applicant shall reimburse Burt County for the actual costs of such engineer and/or expert used during any of the phases of planning, development, decommissioning, and reclamation.

- 2) The total amount of the costs to be reimbursed to Burt County for engineer or expert services may vary with the scope and complexity of the project, the completeness of the application, and other information as may be needed to complete the necessary review and analysis.
- 3) Burt County Engineer, County Attorney, and the Planning and Zoning Administrator shall have the discretion to determine when an application is deemed complete and sufficient administrative review has been conducted before scheduling of a public hearing before the Planning Commission.
- 4) Said cost shall be reimbursed within 30 days of billing.

F. Decommissioning Plan.

- 1) A Decommissioning Plan for installed facilities and infrastructure must be submitted to the Planning Commission at the time of permit application.
 - a. A Decommissioning Plan must include:
 - i. The manner in which the facility will be decommissioned; and
 - ii. A decommissioning schedule;
 - iii. A detailed estimate of the cost of decommissioning a solar generation facility by a professional engineer licensed in the state of Nebraska that shall at minimum include:
 - i. Dismantling and removal of all transformers, overhead cables, and debris of the solar generation facility;
 - ii. Removal of underground cables to a depth of forty-eight (48) inches;
 - iii. Removal of foundations, buildings, and ancillary equipment to a minimum depth of one hundred twenty (120) inches below grade;
 - iv. Site restoration and reclamation to the approximate original topography that existed prior to the construction of the facility with grading, topsoil, re-spread over the disturbed areas at a depth similar to that in existence prior to the disturbance, and reseeded that achieves the same utility of native vegetation of the surrounding areas to prevent adverse hydrological effects, unless the Board of Supervisors approves a signed request by the applicable landowner, identifying the surface features the land owner prefers to remain in place and a valid reason the landowner prefers those features to remain;
 - v. Repairs and construction from damage to public roads, culverts, and natural drainage ways resulting directly from the decommissioning of a

solar generation facility;

- vi. All access roads shall be removed, cleared, and graded, unless a property owner agreement indicates otherwise or the County, through official action of the Board of Supervisors, agree to keep the road;
 - vii. The current salvageable value of the facility, as determined by an independent evaluator;
 - viii. All expenses related to the decommissioning shall be the responsibility of the solar generation facility owner, including any expenses related to releasing any easements.
- iv. Copy of as-built plans including structural and electrical drawings of all facilities and all disturbances associated with the solar generation facility. The as-built plans must be certified by a professional engineer licensed in the state of Nebraska that the information included on depicted as-built plans is complete and accurate.
- v. The Board of Supervisors may reject a decommissioning plan if:
- aa. It finds that the plan does not provide for decommissioning as defined in Rule; and
 - bb. The plan does not adequately describe the cost of decommissioning.

G. Decommissioning Bond.

A decommissioning performance surety bond is required for all approved conditional use permits granted for the installation of Commercial Solar Farms/Facilities. The surety bond must be transferable upon sale of the facilities to any new owner and may not be refunded to any owner/operator of said bond until decommissioning has been satisfactorily completed or transfer to Burt County, Nebraska.

H. Determination of Bond Amount.

- 1) The Board of Supervisors shall require submission of a bond by the owner in the amount of the estimated cost to the Board of Supervisors if it had to perform the decommissioning and reclamation work required of an owner. This amount is based on the estimated cost to the Board of Supervisors to ensure compliance with this Section.
- 2) The bond amount shall be based on:
 - a. The estimated costs submitted by the owner in accordance with this rule and costs estimated by using current machinery production handbooks and publications or other document costs acceptable to the Board of Supervisors.
 - b. Estimated costs to the Board of Supervisors that may arise from applicable public contracting requirements or the need to bring personnel and

equipment to the facility after its abandonment by the owner to perform the decommissioning and reclamation work.

- c. Estimated costs to the Board of Supervisors that may arise from management, operation, and maintenance of the site upon temporary or permanent operator insolvency or abandonment, until full bond liquidation can be affected;
 - d. Unless the provisions of the bond provide otherwise, the line items in the bond calculations are estimates only and are not limits on spending of any part of the bond to complete any particular task subsequent to forfeiture of the bond or settlement in the context of bond forfeiture proceedings; and
 - e. Such other cost information as may be required by or available to the Board of Supervisors.
- 3) In determining the amount of a bond required in accordance with the rule, the Board of Supervisors shall consider:
- a. The character and nature of the site where the solar generation facility is located; and
 - b. The current market salvage value of the solar generation facility.

I. Bond Deadline.

- 1) Except as provided in 3. and 4. below, and in accordance with the rule, the owner shall submit to the Board of Supervisors a bond payable to Burt County, Nebraska in a form acceptable by the Board of Supervisors and in a sum determined by the Board of Supervisors, conditioned on the faithful decommissioning of the solar generation facility.
- 2) Except as provided in 3. and 4. below:
- 3) If a solar generation facility commenced commercial operation on or before January 1st, 2019.
- 4) If a solar generation facility is repurposed, as determined by the Board of Supervisors in consultation with the owner, any existing bond must be maintained, or a new bond acquired and submitted.

J. Penalties for Failure to Submit Bond.

- 1) If an owner does not submit an acceptable bond to the Board of Supervisors within the timeframe required by this rule, the Board of Supervisors may assess an administrative penalty of not more than fifteen hundred dollars (\$1,500), and an additional

administrative penalty of not more than fifteen hundred dollars (\$1,500) for each day the bond is late.

- 2) An owner may appeal the Board of Supervisors penalty assessment to the board within twenty (20) days after receipt of written notice of the penalty.

K. Adjustment of Bond Amount.

- 1) Once every five (5) years, an owner may request a reduction of the required bond amount upon submission of evidence to the Board of Supervisors proving that decommissioning work, reclamation, or other circumstances will reduce the maximum estimated cost to the Board of Supervisors to complete decommissioning and therefore warrant a reduction of the bond amount.
- 2) The Board of Supervisors shall review each decommissioning plan and bond amount every five (5) years. The performance bond must be increased, as required by the Board of Supervisors, if the cost to decommission a solar generation facility increases. The Board of Supervisors shall notify the owner of any proposed bond increase and provide the owner an opportunity for an informal conference on the proposal. The owner shall increase the bond within ninety (90) days of receiving the Board of Supervisor's revised bond amount.

L. Surety Bonds.

- 1) Surety bonds are subject to the following requirements:
 - a. The Board of Supervisors may not accept a surety bond in excess of ten percent (10%) of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant.
 - b. The Board of Supervisors may not accept surety bonds from a surety company for any owner in excess of three (3) times the surety's maximum single obligation as provided in A. above.
 - c. The Board of Supervisors may not accept a surety bond from a surety company for any owner unless that surety is registered with the state auditor and is listed in the United States Department of the Treasury Circular 570 as revised.
 - d. A power of attorney must be attached to the surety bond.
 - e. The surety bond must provide a requirement and a mechanism for the surety company to give prompt notice to the Board of Supervisors and the owner of:
 - i. Any action alleging bankruptcy or insolvency of the surety or violation that would result in suspension or revocation of the license of the surety;
 - ii. Cancellation by the owner; and
 - iii. Cancellation or pending cancellation by the surety.

- f. Upon a determination by the Board of Supervisors that a surety is unable to comply with the terms of the bond, the owner of a solar generation facility shall be deemed to be without bond coverage. The owner shall replace the bond coverage within ninety (90) days of notice from the Board of Supervisors.
- g. Whenever operations are abandoned concurrent with the cancellation of the bond, the Board of Supervisors shall forfeit the bond and decommission the site.

M. Effect of Forfeiture.

- a. The written determination to forfeit all or part of the bond, including the reasons for forfeiture and the amount to be forfeited, is a final decision by the Board of Supervisors.
- b. The Board of Supervisors may forfeit any or all bonds deposited for an entire solar generation facility. Liability under any bond, including separate bond increments or indemnity agreements applicable to a single owner must extend to the owner's entire solar generation facility.
- c. In the event the estimated amount forfeited is insufficient to pay for the full cost of decommissioning and reclamation, the owner shall be liable for the remaining costs. The Board of Supervisors may complete or authorize completion of decommissioning of the bonded area and may recover from the owner all costs of decommissioning in excess of the amount forfeited.

N. Appeals.

If the owner of a solar energy system is found to be in violation of the provisions of Section 6.15, Solar Energy Conversion Systems, appeals should be made in accordance with the established procedures of the Burt County Zoning Regulations.

(end - Exhibit B)

End of April 28, 2025 minutes