

BOARD OF COMMISSIONERS
DAKOTA COUNTY

RESOLUTION 25C-006

RESOLUTION ADOPTING ADDITION TO DAKOTA COUNTY ZONING REGULATIONS

WHEREAS, the County Board of Commissioners has the authority to amend zoning resolutions which shall have the force and effect of law pursuant to Section 508 of the Zoning Ordinances of Dakota County, Nebraska; and

WHEREAS, the County Board of Commissioners established the Dakota County Planning Commission pursuant to Regulation as set for by Neb. Rev. Stat. §23-114 to 23-114.05, 23-168.04, 23-172 to 23-174, 23-174.02, 23-373 and 23-376; and

WHEREAS, the Commission has determined it reasonable and necessary to add ordinance Section 600.7 Solar Energy (Solar Farm) Overlay District (SOD); and

WHEREAS, it is the intent of the County Board to enact the proposed addition of Section 600.7 Solar Energy (Solar Farm) Overlay District (SOD),

NOW, THEREFORE, BE IT RESOLVED BY THE DAKOTA COUNTY BOARD OF COMMISSIONERS that this Board makes the following findings of fact:

- I. A public hearing regarding the adoption of proposed addition of Section 600.7 Solar Energy (Solar Farm) Overlay District (SOD) was held on February 18, 2025 before the Dakota County Planning Commission as required by the State of Nebraska. The Planning Commission provided its recommendation of approval as noted in the Planning Department Report Exhibit "A".
- II. A public hearing regarding the adoption of the proposed amendment and revisions to the Dakota County Zoning Regulations, was held by this Board as required by §23-114.01(2).
- III. Notice of each of the Public Hearings described above was published at least ten (10) days prior to each respective public hearing and the proof of publication has been filed in the Office of the Dakota County Clerk.
- IV. Notice of the time and place of each hearing was also given in writing to the clerks of the local governments which have jurisdiction over land within three (3) miles of the property affected by such action as required by Neb. Rev. Stat. §23-164.
- V. The proposed amendment and revisions to be approved by this Resolution are within Section 600.7 of the Dakota County Zoning Regulations. Further the Planning Department report is attached hereto as Exhibit "A".
- VI. The proposed amendment and revisions to the Dakota County Zoning Regulations are consistent with the Dakota County Comprehensive Development Plan and are designed to promote the health, safety and welfare of the present and future inhabitants of Dakota County.

FURTHER, BE IT RESOLVED THAT this Board, in light of the above, after due deliberation and consideration, upon the recommendation of the Planning Commission, adopts the proposed addition to the Dakota County Zoning Regulations Section 600.7, specifically approval of the amendment as shown in Exhibit "A", and directs the Planning Department to amend the Dakota County Zoning Regulations by adding Section 600.7 and that the same have full force and effect of law, the effective date of the aforementioned Zoning Regulations shall be March 17, 2025.

BE IT ALSO RESOLVED THAT, pursuant to Neb. Rev. Stat. §23-114.03, the County Clerk is directed and instructed to, within fifteen (15) days of the date of this Resolution, publish these Regulations in book or pamphlet form or once in a legal newspaper published in and of general circulation in the county, and the County Clerk is further directed to spread these regulations in the minutes of the proceedings of the county board.

FINALLY, BE IT RESOLVED THAT the regulations enacted by this Resolution are intended to be a complete revision of the existing Zoning Regulations, and all previous Resolutions or parts of Resolutions of the Dakota County Board of Commissioners on said subjects or in conflict with the provisions of this Resolution are hereby repealed. The above Resolution was approved by a vote of the Dakota County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 31st day of March, 2025.

PASSED and APPROVED this 31st day of March, 2025.


Martin Hohenstein, Board Chair


Brian Van Berkum, Commissioner


Rick Bousquet, Commissioner


Jeff Reed, Commissioner


Rogelio Rodriguez, Commissioner

ATTEST:

Approved as to form:


Cherie Conley, County Clerk




Kim Watson, County Attorney

The regular meeting of the Dakota County Planning Commission was called to order at 7:00 P.M. by Chairman Martin Rohde and the Pledge of Allegiance was said by all.

Roll Call: Present were: Scott Bousquet, Ron Collins, Tim Decker, Ron Gill, Steven Lieber, Dick McCabe, Harold Moes and Martin Rohde. Absent: Gordon Hegge. Also, present: Planning and Zoning Administrator Joe O'Neill and Dakota County Commissioner Rick Bousquet. Public present: Ethan Frazier – Mission Energy, Anthony Staab, Bryce Andersen, Robert Bush- Conservation Nebraska, Daniel Rohde.

Notice was made regarding the Open Meeting Act posted on the wall.

Moved by Tim Decker, second by Steven Lieber to excuse absent member Gordon Hegge. Consent unanimous. Motion Carried.

Moved by Harold Moes, second by Ron Collins, to approve the minutes of the January 21, 2025 meeting minutes. Consent unanimous. Motion carried.

The Commission reviewed a few changes that were needed to solar energy overlay district regulations since the last meeting.

Chairman Rohde called a public hearing to order at 7:04pm for the purpose of giving citizens the opportunity to offer support, opposition, or make neutral comments regarding the addition of solar energy overlay district (SOD) regulations to the Dakota County zoning ordinances. The Planning Commission will give their recommendation for or against to the Dakota County Board of Commissioners for their final approval. Joe stated that the solar overlay district is to promote the use of solar energy as an alternative to fossil fuels and thereby promote the public health, safety, and welfare by protecting the environment and preserving our non-renewable resources while at the same time mitigating and negative impact on wildlife, natural vegetation and aesthetics. To have an overlay district it has to be 50 acres or more and SOD applied for. These regulations are adding to our normal regulations to keep a better eye on where the overlay districts are and what it all encompasses. Martin stated that it would not affect the neighboring landowners. Joe stated the overlay would be taxed as business and then if the property ever closed out of the solar energy the zoning would revert back to AG without having to rezone. This is set up to have no tax impact on surrounding landowners.

Commissioner Bousquet questioned whether the improvements to the property with the overlay would impact the surrounding land with tax increases. Joe stated that with incorporating this district overlay, the ground with the improvements would be taxed as business and not affect the taxing of the surrounding landowners. Tim Decker stated that the whole reason for the district overlay is that it would not affect the surrounding property owners according to the county assessor. Joe stated that this one facility is approximately 1600 acres and that the Planning Commission is working on new commercial regulations for this size of a solar farm to also help regulate how it is built to reduce the impact on surrounding landowners. Ethan Frazier with Mission Energy pointed out some changes he would like to see in the regulations, mostly grammatical changes to make them clearer and more concise. Commissioner Bousquet asked if the county attorney had a chance to review. Joe said no, but she will have that opportunity to review them before the Board of Commissioners have their public hearing. The Planning Commission has only worked with the Dakota County Assessor up to this point. The floor was opened for public comment. No comments were made. Motion made by Tim Decker, second Harold Moes to come out of public hearing at 7:27. Roll Call Vote. Unanimous. Motion Carried.

Motion made by Tim Decker, second by Harold Moes to approve the regulations with the changes discussed and send recommendation to the Board of Commissioners for them approve the solar energy overlay district regulations. Roll Call Vote. Unanimous. Motion carried.

The commission discussed who will be attending the NPZA conference in Kearney. Joe O'Neill and Ron Gill will be attending.

The Commission reviewed the Commercial Solar Energy Conversion regulations 25Kw+. Joe recommended a couple of changes. 3.d be changed to setbacks being 90' from the center of the road 3.k be changed to 2 access points per mile.

Miscellaneous and old business. Tabled item regarding the 66 Conditional Use Permits from Summit Carbon Solutions will remain tabled. No permits issued since last meeting. Joe stated that there has been a lot of talk about nuclear energy. Woodbury County is having a meeting about nuclear energy and Joe is planning on attending.

Marty opened up the floor to public comment. Bobby Bush with Conservation Nebraska informed the commission about a renewable energy educational session featuring Conservation Nebraska and the Nebraska Extension program at the South Sioux City public library on February 24th at 6:30pm. They will discuss solar grazing and integrating solar with agricultural operations.

Moved by Steven Lieber, second by Harold Moes to adjourn. Consent unanimous. Motion carried

Meeting was duly adjourned at 7:33 P.M.

Respectfully submitted,

Jolene Gubbels

**Dakota County Planning Commission
Dakota County, Nebraska
Section 600.7 Agricultural (AG) Zoning District
Solar Energy (Solar Farm) Overlay District (SOD)**

The Dakota County Planning Commission held a public hearing to amend the Dakota County Planning & Zoning regulations to include Solar Energy (Solar Farm) Overlay District (SOD) in Section 600.7 Agricultural (AG) Zoning District.

Moved by Tim Decker seconded by Harold Moes that the above request be APPROVED/ DISAPPROVED by the Planning and Zoning Commission and request the Dakota County Board of Commissioners accept their recommendation.

Planning and Zoning Board Members voting Yea:

<u>Scott Bousquet</u>	<u>Ron Collins</u>	<u>Tim Decker</u>
<u>Ron Gill</u>	<u>Steven Lieber</u>	<u>Dick McCabe</u>
<u>Harold Moes</u>	<u>Martin Rohde</u>	<u></u>

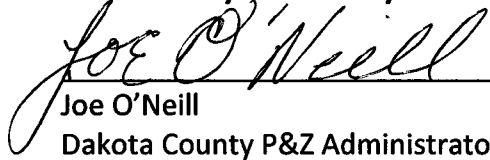
Planning & Zoning Board Members voting Nay:

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Planning & Zoning Board Members absent:

<u>Gordon Hegge</u>	<u></u>
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Passed this 18th day of February 2025


Joe O'Neill
Dakota County P&Z Administrator


Martin Rohde, Chairman
Dakota County Planning Commission

**Board of County Commissioners
Dakota County, Nebraska
Section 600.7 Agricultural (AG) Zoning District
Solar Energy (Solar Farm) Overlay District (SOD)**

Moved by Bousquet, second by Rodriguez, that the request for the Solar Energy (Solar Farm) Overlay District (SOD) regulations to be added to Section 600.7 Agricultural (AG) Zoning District be ACCEPTED/DENIED.

Board of Commissioners voting Yea:

<u>Van Berkum</u>	<u>Bousquet</u>	<u>Reed</u>
<u>Hohenstein</u>	<u>Rodriguez</u>	

Board of Commissioners Voting Nay:

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_____	_____	

Board of Commissioners Absent:

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Passed this 31st day of March 2025

Cherie Conley
Cherie Conley
Dakota County Clerk



Martin Hohenstein
Martin Hohenstein, Chairman
Dakota County Board of Commissioners

Section 600.7 SOLAR ENERGY (SOLAR FARM) OVERLAY DISTRICT (SOD)

Purpose

The purpose of the SOLAR ENERGY OVERLAY DISTRICT (SOD) is to promote the use of solar energy and accompanying infrastructure such as battery energy storage systems, transmission lines, collector substations, etc., as an alternative to fossil fuels and thereby promote the public health, safety and welfare by protecting the environment and preserving our nonrenewable resources while at the same time mitigating any negative impact on wildlife, natural vegetation and aesthetics. A SOD permits a private developer to apply for and subsequently construct, operate, and maintain a Solar Energy Facility and its equipment, such as panels, battery storage systems, transmission lines, and other appurtenances to gather, store, and transfer solar energy to the electrical grid. Furthermore, the SOLAR ENERGY OVERLAY DISTRICT implements the following goals and policies of Dakota County.

Master Plan:

1. Solar Energy Facilities involve development costs which are exclusively the Responsibility of private ownership which advances the objective of having developers in rural areas pay their own way.
2. Balances the needs of the general public for lower cost and clean energy with the goal of preserving prime agricultural land.
3. Solar Energy helps create business opportunities without noise, air or ground pollution and without impacting traffic flow in Dakota County.
4. Promotes effective wildlife and natural vegetation management while minimizing the impact on wetlands and minimizes erosion.
5. Preserves the underlying zoning classification of the property which is subject to the Overlay District.
6. Balances the needs of the public with the rights of private ownership of land.

Section 600.7.100 APPLICABILITY

1. These Regulations are applicable to all tracts of real estate which have been designated as part of a SOD by the Dakota County Commission and to any application filed by real property owner, or their designee, who desires that one or more parcels of real estate be designated as a SOD.
2. All SODs must be reflected as such on the Dakota County Official Zoning Map or designated as such by a registered engineer or surveyor on a topographical map which is to be attached as an Appendix to the Official Zoning Map of Dakota County.
3. Although the Dakota County Commission has the inherent authority to rezone property and designate which areas are to be part of a given overlay district, it is the policy of Dakota County that no land will be designated as a SOD without the written consent of or at the request of the owner or owners of the subject property.
4. Applicants seeking to apply for a rezone to an SOD to allow for a utility-scale solar project in unincorporated Dakota County may apply for a rezone in conjunction with a conditional use permit.

Section 600.7.101 OVERLAY DISTRICT MAP

The OVERLAY DISTRICT MAP will consist of the Official Zoning Map of Dakota County which has been annotated in clear and unambiguous markings to reflect the boundaries of the SODs which have been approved by the Dakota County Commission. The Official Zoning Map will be updated on an annual basis, if needed because of the addition of parcels to existing SODs or the creation of new ones, so that the Zoning Map accurately reflects the SOD Boundaries. Between the date that any new area is designated as a SOD and the date that the Official Zoning Map is updated, all SODs shall be designated by an Appendix attached to the Zoning Map as required in Section II. B. hereof.

Section 600.7.102 DEVELOPMENT STANDARDS

1. General Standards
 - a. SODs can only be established in areas which are zoned as Agricultural.
 - b. The boundaries of any SOD must adhere to the minimum principal setback standards for the Agricultural zoning district. Additionally, solar panels within a SOD shall be set back at least two hundred (250) feet from non-participating residences, unless non-participating landowners and the Applicant mutually agree upon a shorter distance.
 - c. In order to be designated as a SOD, the area to be designated must consist of a minimum of 50 contiguous acres.
2. Development Standards: All development within a SOD must comply with the following standards in addition to the applicable requirements of the underlying zoning district. In the event of a conflict between these Development Standards and the requirements of the underlying zoning district, these Development Standards shall control.
 - a. Setbacks from any area which has been designated as a "wetland" by the Nebraska Department of Natural Resources shall be subject to their regulations.
 - b. An area requested to be designated as a SOD must adjoin or be able to be accessed by at least one publicly owned and maintained road or a privately-owned road which has been dedicated to public use and which meets Dakota County roadway standards. The primary means of ingress and egress must meet the applicable site line requirements of either the Dakota County Highway Department or the Nebraska Department of Transportation. Access must be suitable for entry by emergency response vehicles.
 - c. All project infrastructure must be depicted on a topographical map of the subject area.
 - d. A security fence at least six (6) feet in height must encircle the boundaries of a solar Facility within the proposed SOD.
 - e. A screen buffer of appropriate vegetation, trees and shrubs must be planted on any boundary of a Solar Overlay District which adjoins a county, state or federal roadway or which is within 250 feet of a residence which is not located within the District. All other buffer requirements shall be as required by the regulations of the underlying zoning district. The screen buffer requirements required by this Section are the minimum necessary in order to obtain a designation as a SOD. Any requirements to obtain an operating permit which are more restrictive than the requirements hereof shall control.
 - f. Only Photovoltaic Solar Panels or other panels which do not contain liquids within the panels shall be permitted.
 - g. To preclude unacceptable noise pollution beyond the boundaries of the SOD, the inverters which are necessary to convert DC to AC so that power can be transferred to the "grid" must be located at least 100 feet from all boundaries of the SOD.

Section 600.7.103 SUBMITTAL REQUIREMENTS

The following information must be included in all applications to establish a SOD:

1. Name, address, email address and phone number of the applicant. If the applicant is a corporation, a Certificate of Authority to do business in Nebraska must be submitted.
2. Name and address of all owners of the property which is proposed to be designated as a SOD, and evidence of the applicant's authority to proceed on behalf of the owners.
3. The exact legal description and parcel number of each tract which is the subject of the application.
4. Twelve (12) copies of a topographical map which contains the boundaries of the proposed SOD, all associated infrastructure, proposed points of ingress and egress, names of all public and private roads which provide access to the proposed SOD, and any occupied non-participating residence,

existing and occupied as of the date the application for the SOD is filed, within 250 feet of all SOD boundaries.

5. The names and mailing addresses on file with the Dakota County Assessor of all owners of property within 1000 feet of any boundary of the proposed SOD. If any such property is owned by a corporation or limited liability company then the name and address of the registered agent shall be provided.
6. A statement as to the total number of acres contained within the proposed SOD.
7. Zoning classification of the underlying property.
8. Zoning classifications of all parcels which abut the proposed SOD.
9. Requests to establish a SOD submitted by private property owners shall include any memorandum of lease or another document which has been entered into between the property owner and a solar power energy company or business.
10. Fees for the cost of County processing, publication of notices of hearings and etc. shall be paid prior to the County Commission issuing its final decision.

Section 600.7.104 REVIEW PROCEDURE

The review procedure for the establishment of a SOD shall be the same as required for any other proposed amendment to the Dakota County Zoning Regulations. The process of deciding whether or not to establish a SOD is entirely separate from the process required for an entity to obtain a permit necessary to operate a Solar Energy Farm. The procedure is as follows:

1. The applicant shall submit a request to the Zoning Administrator to establish a SOD. The request may either be submitted in narrative form or an application form prepared and maintained by the Planning and Zoning Department.
2. The Zoning Administrator and the Zoning Administrator's staff and other necessary County officials shall review the application for completeness. If the application is found to be incomplete, it shall be returned to the applicant. Once it has been confirmed that the application is complete, the Zoning Administrator shall prepare a report and recommendation to be provided to the Planning and Zoning Commission.
3. The Zoning Administrator shall schedule the matter to be heard by the Planning and Zoning Commission at a public hearing and shall mail out and publish notice as required by Nebraska law.
4. The Planning and Zoning Commission shall hold a public hearing and after hearing and viewing the testimony and evidence submitted, the Planning and Zoning Commission shall make its recommendation to approve, deny or modify the request and submit its recommendations to the County Commission.
5. Upon the receipt of the Planning and Zoning Commission's recommendations, the County Commission shall schedule and conduct a minimum of one (1) public hearing with notice and publication of each being made as required by Nebraska law.
6. The procedure at the public hearing or hearings shall be the same as that employed for any other amendment to the Zoning Regulations.
7. At such time as all scheduled public hearings have been concluded, the County Commission shall schedule a deliberative session at which the County Commissioners shall discuss the evidence and testimony between themselves and shall have the right to ask questions of County staff for clarification purposes. Although the deliberative session shall be an "open meeting", no testimony or evidence shall be received unless requested by the County Commissioners.
8. At the conclusion of the deliberative session, the County Commission shall issue its findings and may approve the request, deny the request or amend the request.
9. Appeals from the decision of the County Commission shall be as provided for by Nebraska law.