

**RESOLUTION NO. 24-\_\_\_\_\_**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF JACKSON COUNTY, KANSAS ADOPTING AN AMENDMENT TO, AND RESTATEMENT OF, ARTICLE XXX OF THE ZONING REGULATIONS OF JACKSON COUNTY, KANSAS.**

WHEREAS, the Jackson County Planning Commission, after holding a public hearing on \_\_\_\_\_, 2025, following due and lawful notice pursuant to K.S.A. 12-757 and Article XXXVII of the Jackson County, Kansas Zoning Regulations has recommended that the Board of County Commissioners of Jackson County, Kansas (the “Board”) make certain amendments to the Zoning Regulations, as set forth below; and

WHEREAS, on \_\_\_\_\_ 2025 the Board found that the Zoning Regulations should be amended to develop specific use standards for Solar Energy Conversion Systems by adopting the amendments set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF JACKSON COUNTY, KANSAS AS FOLLOWS:

1. 1. Commission Findings. The Jackson County Comprehensive Plan seeks to balance property rights with community rights. The Comprehensive Plan does this by categorizing and favoring prime agricultural soils (p. 29-31), preservation of known areas of sensitive habitat for plants and animals (p. 31-2), stream buffering for watersheds (p. 94) and by seeking a balance between economic growth and preservation of agricultural land. Unless explicitly stated otherwise in the regulations, the provisions of this portion of the code should be read with the emphasis of the Comprehensive Plan in mind: to conserve agricultural soils, maintain environmental balance and to limit disturbance of the rural character of the County.

2. Board Concerns and Resulting Standards. The Board of County Commissioners is concerned about the environmental effects of large-scale solar projects and the impact of large tracts of land being devoted to novel and singular use. The County Planning Commission, and any other County officer or employee shall consider the following in addressing any application or use under this Code:

- A. Visual impact to neighboring property and public lands and roads;
- B. Impact on wildlife and wildlife habitat; endangered species and those in need of protection under State or Federal law;
- C. Preservation of prime agricultural soils and protection for farming activities;
- D. Impact on cultural, historical, or archeological features;

- E. Impact on water quality, soil erosion, drainage features and siltation of source water lakes, ponds, rivers and reservoirs;
- F. Impact on infrastructure, including roads and bridges for construction access;
- G. Applicant/Owner/Operator experience, reputation, and financial ability;
- H. Impact on adjoining landowners holding environmentally or historically sensitive lands;
- I. The need for safe decommissioning and removal of facilities, and reclamation of land;
- J. The need for safe disposal of project elements such broken or damaged panels and other facilities; and
  - I. Degree to which agricultural uses, environmental protection and wildlife habitat are accommodated with the facility layout and design.

3. Adoption of Amendments. The Board hereby finds that the statutory provisions for the amendment of the Zoning Regulations has been fully complied with and hereby adopts the following amendments (the “Amendments”) amending and restating Article XXX of the Jackson County, Kansas Zoning Regulations as follows:

## **ARTICLE XXX**

### ***SPECIAL USE PERMIT STANDARDS FOR LIMITED SCALE SOLAR ENERGY CONVERSION SYSTEMS (LSECS) AND COMMERCIAL/UTILITY SCALE SOLAR ENERGY CONVERSION SYSTEMS (CSECS) AND “R-E” RENEWABLE ENERGY CONVERSION SYSTEMS “RECS” OVERLAY DISTRICT***

**SECTION 1. DEFINITIONS:** For the purposes of this Article, the following definitions will apply:

1. *Agrivoltaic*: A solar energy conversion system that provides for both solar energy collection and compatible agricultural uses as a dual-use property. The most common types of agrivoltaic facilities include the growing of crops, providing for pollinators, or grazing of animals. These agricultural activities occur underneath and surrounding the panels or modules.
2. *Concentrating Solar Thermal Devices*: Also known as concentrated solar power; these systems use mirrors or lenses to reflect and concentrate sunlight onto a receiver.

The energy from the concentrated sunlight heats the receiver to a higher temperature. This heat is then used to spin a turbine or power an engine to generate electricity.

3. *Extraordinary Events*: Any of the following would be considered an “extraordinary event”: large-scale or facility-wide damage to Solar Arrays/panels and facilities due to wind, storm, hail, fire, flood, earthquake, or other natural disaster; explosion, criminal destruction, grievous injury to any citizen or employee; or similar event.
4. *Grading*: The act of excavation, filling or leveling, or a combination of any of these methods to prepare a smooth horizontal or sloping surface on a property for use of the property.
5. *Net Metering*: a system in which solar panels or other renewable energy generators are connected to a public-utility power grid and surplus power from the renewable system is transferred onto the grid, allowing customers to use this surplus power to later offset the cost of power drawn from the utility.
6. *Operator*: The party or entity responsible for the construction, operation, maintenance, and decommissioning of the Solar Energy Conversion System.
7. *Owner*: The party holding title ownership of the property to be subject to the use by the Operator.
8. *Permeable Fencing*: Fencing that allows wildlife to pass through. Examples include typical barb-wire fencing or wire fencing with larger holes than a traditional chain link fence, woven wire, with wildlife corridors for larger wildlife.
9. *Project Area*: The total impacted area including the Site Area along with the accessory or appurtenant structures and equipment, wildlife corridors, internal spacing between panels and facilities and other components of the solar energy conversion system.
10. *Project Extent*: All land containing the Site Project Area by a single operator or owner, measured based upon the land ownership or lease of parcels, including all setbacks, buffers and unused areas. The limits of the Project Extent would be the smallest rectangle that encompasses the Project Area in its entirety.
11. *Site Area*: The footprint of the solar facility including the various Solar Modules, whether on property that is commonly owned/controlled or is under separate ownership. The Site Area is the cumulative total of the Solar Modules within the facility. The Site Area is measured with the panels as horizontal as possible. This term does not include the wildlife corridors or other features of the solar energy conversion system that are not considered part of the Solar Module.

12. *Solar Array*: A collection of multiple solar panels that generate electricity as a system, most typically this is a group of solar panels connected to the same inverter.
13. *Solar Energy Conversion System (SECS)*: a machine or device that converts sunlight into heat (passive solar) or into electricity, whether by photovoltaics (PV), Concentrating Solar Thermal Devices (CST), or other conversion technology.
  - A. *Personal or Accessory Solar Energy Conversion System*: Solar energy conversion systems that are used for personal or individual residential use or are accessory to other uses. Electricity created is for consumption on-site and not for transfer or sale to a third party, except for allowance of net metering.
  - B. *Limited Scale Solar Energy Conversion System (LSECS)*: Solar energy conversion system that does not exceed 20 contiguous acres in area. Minor structures other than energy conversion equipment may be included in this use. A limited scale system is typically created by people that join together to cooperatively install conversion systems and use solar energy. Electricity created is for consumption of members in the group and not for transfer or sale to a third party except for allowance of net metering.
  - C. *Commercial/Utility Scale Solar Energy Conversion System (CSECS)*: Solar energy conversion systems, commonly referred to as ‘solar farms’, that convert solar energy into electricity for the primary purpose of storage or sales of generated electricity. This term includes all appurtenant facilities such as roads, substations, and operation or maintenance buildings. The system is connected to transmission, collector, feeder lines, and/or battery storage, and is intended for use in a larger electrical network exclusive of individual use. Also known as Commercial Solar Energy Conversion System.
14. *Solar Module*: A grouping of Solar Arrays. The area of a Solar Module is measured with the panels as horizontal as possible. The Module may be separated from other Modules by fencing, wildlife corridors, natural areas, roads, etc. Appurtenant structures such as sub-stations, battery storage, and other storage buildings, are not included in this definition.
15. *Wildlife Corridors*: A vegetated route or other connection which allows movement of wildlife between areas of habitat. A wildlife corridor may be naturally occurring areas such as stream corridors, or constructed breaks in contiguously fenced areas other than for roads. A wildlife corridor allows animals to travel through an area that may be fragmented with solar energy conversion systems, or other features, rather than using the nearby roadways.

**SECTION 2. REQUIREMENT TO OBTAIN A SPECIAL USE PERMIT FOR ANY LIMITED SCALE AND/OR COMMERCIAL/UTILITY SCALE SOLAR ENERGY CONVERSION SYSTEM IN THE COUNTY:**

1. *Purpose and Intent of Regulations.* It is the purpose of this section to provide details related to any application for a Limited Scale Solar Energy Conversion System (LSECS) or Commercial/ Utility Scale Solar Energy Conversion System (CSECS) Project; create a process to permit the development of a LSECS or CSECS project; to provide requirements and rules for such use and identify significant environmental, social, and economic impacts, including benefits, related to the LSECS or CSECS project and control for the same. It is the intent of these regulations to address major issues associated with the project; however, these regulations shall not forbid, and instead shall be read to expressly allow modifications to any allowed Permit to address unique conditions, addition of requirements or substituted performance as long as these modifications in as much they preserve the public health and welfare and protect adjoining landowners and property.

Towards this end, the County Planning Commission, and any other County officer or employee shall consider the following in addressing any application or use under this Code:

- A. Visual impact;
- B. Impact on wildlife and wildlife habitat; endangered species and those in need of protection under State or Federal law;
- C. Preservation of prime agricultural soils and protection for farming activities;
- D. Impact on cultural, historical, or archeological features;
- E. Impact on water quality, soil erosion, drainage features and siltation of source water lakes, ponds, rivers and reservoirs;
- F. Impact on infrastructure, including roads and bridges for construction access;
- G. Applicant/Owner/Operator experience, reputation, and financial ability;
- H. Impact on adjoining landowners holding environmentally or historically sensitive lands; and

- I. Degree to which agricultural lands can be preserved for agricultural uses, environmental protection and wildlife habitat are accommodated with the facility layout and design.
2. *Applicability and Prohibitions.*
  - A. These standards do not apply to Personal or Accessory Energy Conversion Systems. Personal or Accessory Energy Conversion Systems are authorized and regulated with the current Zoning Regulations of Jackson County and are expressly exempt from the SUP process/requirements.
  - B. These standards and regulations apply to Commercial/Utility Scale Solar Energy Conversion Systems proposed in the unincorporated territory of Jackson County, except where specifically noted.
  - C. The use of Concentrating Solar Thermal Devices in any form is strictly prohibited.
  - D. The use of Battery Energy Storage System or similar storage systems are strictly prohibited.
3. *Codes and Building Standards.* Construction on any project shall be in accordance with appropriate building codes and standards. Further, the application and use of Codes shall be established by Resolution by the Board of County Commissioners. For purposes of this Regulation, the following are the initial codes that operators and owners are required to follow: the current version of the International Building Code, International Fire Code and National Electrical Code.
4. *No Vested Rights.* The existence of these regulations, or application for a permit, do not vest rights for any owner or operator to claim a vested right in any project or application of regulations. The grant of a permit does not vest rights in current standards for grading, stormwater management, drainage requirements or erosion control, and any owner or operator may be subject to changes to any regulation herein, and will be required to comply as a continuing condition of a permit. Any other regulation may be modified and make current permit holders subject therein as long as the County gives a Five (5) year amortization period for compliance with the amended or modified regulations.
5. *Relation to other Laws and Regulations.* These Regulations shall be deemed to be in addition to, and supplemental to all applicable Federal and State laws and regulations. Owners, Operators and Applicants shall demonstrate their ability to strictly conform to all applicable performance standards detailed in these Regulations as well as applicable State and Federal laws or regulations.

**SECTION 3. STANDARDS FOR APPROVAL:** The following standards and conditions shall be applied to any use under the application process:

1. *Application and Initial Information.* Unless otherwise provided in any plans, submissions or other documentation, the applicant for a Permit shall provide the following information in its Application:
  - A. A detailed description of the overall project.
  - B. A list of property owners, if different from the Operator.
  - C. A corporate disclosure statement by any Operator or applicant that is a corporation, partnership or similar entity. This statement shall disclose state of incorporation, date of incorporation, and all parties having ownership of more than 10% of the equity interests in said entity. The corporation must provide a certificate of good standing from their state of incorporation and file to do business in the state of Kansas. The applicant or operator will provide the address of the registered agent, and advise of any amendment to change the registered agent within Ten (10) days of such change.
  - D. The name of any business or energy provider that will interconnect with the system. Evidence of regulatory approvals or permits for such delivery shall be provided.
  - E. The approximate rated capacity of the system.
  - F. The location of any point of delivery between the system and other interconnected businesses or energy utility.
  - G. A detail of planned panel installations with specifications.
  - H. The planned project area in acres.
  - I. A listing of any past projects, wherever located, for the delivery of power for use outside of the system property.
2. *Height.* Solar panels shall not exceed fifteen (15) feet in height, measured when oriented at maximum tilt, with the following exceptions:
  - A. Said height restrictions shall not apply to appurtenant enclosed structures. Structures shall comply with the height limit for the zoning district.
  - B. The Planning Commission may approve a modification to allow panels of greater height, if found to be beneficial to accommodate slopes without grading or to accommodate agrivoltaic plans or conditions, or as otherwise in line with the goals of these provisions, provided the height of the solar panels do not negatively impact nearby land uses or the character of the area.
3. *Location of Property for Site.* The system shall be located on property that will generally:
  - A. Accommodate the future growth of incorporated cities. Towards that end, no part of any project may be placed within one mile of the city limits of any city.
  - B. A CSECS project may not be within 2 miles of another CSECS project.

- C. In the Project Extent, no Solar Array may be more than one-half mile from the other arrays. The Project Area may not take up more than 70% of the Project Extent.
- D. Utilize existing terrain, vegetation, and structures to screen the project from off-site view to the extent possible. If this is not possible, additional screening may be required;
- E. Avoid steep slopes of 15% or greater; and
- F. Minimize impact to environmentally and historically sensitive lands.

4. *Size of Systems on the Property.*

- A. In order to maintain the rural character and preserve agricultural land the CSECS Project Area shall be limited to no more than 2,000 acres total, unless the Board of County Commissioners approves a modification from this standard based on site specific characteristics which are determined to aid in the preservation of rural character or natural features or to promote the shared agricultural use of the property.
- B. No LSECS shall contain more than 20 contiguous acres total. The size of the LSECS shall be measured as the area when the panels are in their most horizontal position, if a tracking system is used, and does not include access drives, transformers, ancillary structures, or their required setbacks.

5. *Glare.* All solar panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic, including air traffic, or create a safety hazard as per any Local, State, and Federal laws and regulations. If necessary, the following measures can be utilized to limit glare:

- A. Textured glass;
- B. Anti-reflective coatings;
- C. Screening;
- D. Distance;
- E. Positioning units in a manner that reduces glare;
- F. Or such other method as may be approved by the Planning Commission.

6. *Vegetation.* The system shall be designed to accommodate concurrent use of the land for livestock grazing, row crops, pollinator habitat, other agrivoltaic uses, or contain a diverse array of native grasses and forbs for native habitat under and between the rows of solar panels. Ground around and under solar panels/Arrays and in designated buffer areas shall be planted and maintained in perennial vegetated ground cover or agricultural plants that are managed to prevent erosion and runoff, and meet the following standards:
  - A. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the system, access roadways, and other approved site improvements.
  - B. Removal of stands of mature trees shall be limited and shall comply with the environmental protection standards in this Code and with emphasis on maintaining soil and minimizing erosion.
  - C. The surface of the project site shall be prepared as shown on the approved Vegetation Management and Agrivoltaic Plan. For the remainder of the Project Area, disturbed soils shall be seeded to prevent erosion and manage runoff. Seed mixes for perennial plantings should include a diversity of grasses, native plants, wildflowers, and similar pasture grasses are preferred.
  - D. Any pesticides, herbicides or fertilizer used on the site shall be applied only as outlined in the vegetation plan. If the vegetation plan has been designed to minimize the use of pesticides or herbicides, those practices should be clearly stated on the site plan and noted in the operation plan.
7. *Soils.* All grading and construction activities shall preserve existing topsoil. Topsoil may be temporarily displaced where grading has been approved as part of an installation.
  - A. The amount of topsoil displaced shall be minimized;
  - B. If displaced, topsoil shall be segregated and stockpiled on the site;
  - C. After rough grading, the topsoil shall be redistributed uniformly on the surface of all areas to be vegetated; and
  - D. Topsoil shall not be removed from the site except as required by the Kansas Department of Health and Environment (KDHE) due to contamination, or due to other applicable Local, State, Or Federal Laws. The amount of soil removed shall be reported to KDHE, if KDHE accepts such reports, and the County Zoning Administrator and is to be disposed of in accordance with applicable

regulations. The County may require topsoil to be brought to the site for reapplication and planting, depending on the amount that was removed.

8. *Setbacks and Buffering/Screening.*

- A. All structures shall be in compliance with the setbacks required for that zoning district, if they exceed the setbacks provided herein.
- B. The solar panels and appurtenant structures shall be located a minimum of 1,000 feet from any existing residence, as measured from the dwelling, unless a lesser setback is agreed to by the owner of the residence. The solar panels and structures may be within 100 feet of any accessory buildings or agricultural structures.
  - i. Buffering or screening landscaping, fencing, agricultural uses, and access drives may be within this 1000-foot setback.
  - ii. Written evidence of the setback agreements, including any additional landscaping, shall be provided to the County Zoning Commission as part of the special use permit application and, with the approval of the special use permit, shall be filed with the Register of Deeds by Planning Staff, at applicant's expense.
- C. No portion of a system may encroach upon the public right-of-way except for distribution or transmission lines (overhead or underground) unless all applicable approvals from the authority having jurisdiction over that portion of the right-of-way have been obtained. Solar panels must be at least 150 feet from any County or Township Road, and 50 feet from any Minimum Maintenance Road. All overhead lines must comply with applicable height regulations and cannot present a danger or hinderance to public travel or safety.
- D. If there are residential parcels of land within the Project Extent that are not owned by the Operator or under any other agreement with the Operator (Non-Participating Parcels), and if the same adjoin the Project Area on two sides of the property, or if more than 50% of the exterior property lines adjoin the Project Area, then all setbacks shall be increased by 50 feet along the property lines of the Project Area.
- E. Additional setbacks may be required to mitigate site specific issues or to provide for frontage roads, cross-access easements, commercial corridors, or other means of egress/ ingress.

- F. Unless waived by the adjoining property owner in writing as required herein, a 25-foot-deep buffer area shall be provided, and maintained, along property lines between the systems and adjoining residential properties for the purpose of screening the residential portion of the property.
- G. The buffer area shall include the minimal features necessary to provide an adequate buffer in order to minimize land disturbance and to create a visual buffer. The buffer may include a combination of berms, fences, and/or vegetation and may occur within the required setbacks on the facility property. The method or methods proposed by the applicant shall screen ground level views and activity. Such screening shall be located within a buffer zone and outside of security fencing and may also be required in other locations to screen specific uses or structures, such as substations and connection facilities. Screening shall not encroach upon road right of way, nor be a visual barrier for road travel. The Planning Commission may approve a plan to allow phased screening based on special or unique conditions of the use or site.
  - i. Existing Screening: Existing vegetation, topography, buildings, open space, or other elements located on the site may be considered as part of the required screening.
  - ii. Landscaping: Landscaping intended for screening shall include a combination of evergreen trees that are 5-6 ft. in height at time of planting and deciduous trees, which may include fruit trees, that are 5-6 ft. in height at time of planting. Trees shall be placed on average at 25 ft. or less on center.
  - iii. Berming: Berms shall generally be constructed with a 3:1 side slope to rise ratio, 4-6 ft. above the adjacent grade, with a 3 ft. wide top (the wide top is necessary to have a flat area for plantings). The outside edges of the berm shall be sculpted such that there are vertical and horizontal undulations to give variations in appearance. When completed, the berm should not have a uniform appearance like a dike. All land berms shall be seeded with a revegetation seed mix based on prairie grasses and forbs native to the Midwest United States to include pollinator plants where compatible with site conditions.
  - iv. Buffer Fencing: Fencing intended for screening shall be at least seventy-five (75) percent visually solid as viewed on any line perpendicular to the fence from adjacent property or a public street. Such fencing may be used in combination with other screening methods but shall not be the primary method, which shall mean for the purposes of this subsection that fencing shall not be used to screen more than thirty (30) percent of the views required to be screened. A typical example is the use of a combination of

wood privacy fencing and landscaping to screen structures. Depending on the location, such as abutting residential zoning, ornamental features may be required on the fence. Fencing material shall not include chain link fencing with slats.

- H. The buffer area shall be designed to buffer the view of the facility from the road and any adjoining residences based upon the location of the residential portion of the property.
- I. Evidence of any waivers or agreements from adjoining landowners shall be provided to the County Zoning Administrator and shall be filed with the Register of Deeds at the applicant's expense.

9. *Fencing.* Properties containing CSECS are to be enclosed by perimeter fencing to restrict unauthorized access.

- A. As required by Local, State, and Federal regulations, critical electrical and communications equipment may be fenced with chain-link fence topped with barbed wire when such measures are deemed necessary to ensure public safety and provide additional security for the equipment.
- B. Wildlife corridors shall be provided as determined necessary by wildlife biologists with the Kansas Department of Wildlife and Parks, or other specialists selected by the applicant and approved by the County to accommodate wildlife in the area. Wildlife friendly fencing, such as a barb-wire fence with smooth wires for the top and bottom strings, or woven wire or other permeable fencing, shall be used where possible. Where wildlife friendly fencing is not utilized, additional wildlife corridors, including escape corridors, may be required in areas prone to grassfires or flooding.

10. *Signage.* Perimeter fencing shall incorporate appropriate safety signage, including addresses for each fenced area, shall be provided as required by Emergency 911 dispatch, at a minimum spacing of every 500 feet.

11. *Lighting.*

- A. Security or safety lighting relating to the CSECS and appurtenant structures shall be limited to the minimum necessary to mitigate visual impacts.
- B. No exterior lighting fixture shall be installed that exceeds fifteen (15) feet in height unless proven necessary by the applicant and approved as part of the special use review process.

- C. No light source shall be directed off-site. All external lighting shall be shielded and downcast such that light does not encroach upon adjacent properties or the night sky.
- D. All exterior lighting, where used, shall be motion activated and on a timer, or switch operated.
- E. If LED lights are used, the color temperature shall be no more than 3000K (Kelvin).

12. *Noise.*

- A. The operational noise generated from the solar installation equipment, including inverters, components, and associated ancillary equipment shall not exceed a noise level of 60 decibels (60 dBA) as measured at the property line or at an existing residence 500 feet from the array.
- B. Applicants/Operators shall submit equipment and component manufacturer noise ratings at the time of application to demonstrate compliance with the maximum permitted noise level, as noted above.
- C. Transformers, inverters, or other sound or vibration generating equipment must be placed so that low level recurring ambient noise does not exceed the limit noted above. Noise levels can be minimized with type of equipment or the placement of equipment interior to the site, shielded by proposed solar panels and/or by specifically placed noise- and vibration- deadening fence, landscape, or other efforts.

13. *Electrical Interconnections.* All electrical interconnection and distribution lines within the subject site shall be located underground, with the following exceptions:

- A. When site conditions require. A modification may be granted by the County Commission in instances where shallow bedrock, water courses, or other protected environmentally sensitive lands, make underground connections detrimental or where it is not economically feasible.
- B. Generation tie-lines from the project substation to a utility substation may be above ground.

Underground cables shall be located at least 3 feet, vertically or horizontally, from existing underground utilities. Off-site, above ground utility or power lines may only be used for generation tie-lines from the project substation to a utility substation and must be located in public rights-of-way, easements, or other legally dedicated tracts of land.

14. *Farmland Standards.* Preservation of prime agricultural land and retention of soils are goals of these regulations, and since Commercial Scale Solar Energy Conversion Systems (CSECS) commonly utilize agricultural or rural land, the following standards shall apply:

- A. Projects that preserve agricultural character by enabling the integration of food production into their design are encouraged.
- B. Systems may be located on prime farmland and farmland of statewide importance when the natural topography is preserved by limiting grading to not exceed 5% of the site area unless a modification is granted by the Planning Commission. A modification may be granted if it is found to be necessary to ensure proper drainage or to mitigate unusual site constraints with an emphasis on preserving farmland soils as much as possible.
- C. Grading on prime farmland or farmland of statewide importance may occur in excess of 5% of the site area, but not to exceed 10%, to the extent needed to accommodate the system on previously disturbed land.
- D. Grading for transformers, access, roads, and grid connection infrastructure does not count against any percentage limitation noted above.

**SECTION 4. APPLICATION AND REQUIRED DOCUMENTS:** In addition to all notices and requirements of State Law and the Zoning Code on special or conditional uses, the following additional notices, documents, applications and materials are required as part of the application submittal:

1. *Additional Public Notice.* Prior to applying for a Special Use Permit for a Commercial/Utility Scale Solar Energy Conversion System (CSECS), the applicant shall mail notice of the potential development application to property owners within a one-mile radius of the property included in the application. (This is in addition to the Planning Office's mailed notification of the Planning Commission public hearing to property owners within ½ mile of the subject property).
  - A. The applicant shall submit a certificate of mailing provided by the Planning Office for this notice, a sample letter, and a list of notified property owners at the time of the application.
    - i. A certified list of property owners within one-mile of the property within the SUP application shall be obtained from the Jackson County Clerk's Office, within 30 days of the mailing date.
    - ii. The notice shall be sent by mail and shall include a brief description of the project, proposed construction date, date the application will be submitted

to the planning office, the person with contact information (phone, email, address) designated by the applicant to respond to questions concerning the proposed application and the following statement:

*"This letter is being sent to the owners of nearby property for the purpose of informing the property owners and other interested parties about the proposed Commercial Solar Energy Conversion System (CSECS) project described further in this letter. This letter does not grant the recipient and/or the property owner any additional legal rights to challenge the proposed development, instead, it is being provided solely to advise property owner(s) of the pending development. For further information, contact the applicant's designated representative \_\_\_\_\_."*

- iii. The applicant is responsible for mailing notice to all property owners listed on the certified property owner list prior to the submittal of the special use permit application.
- iv. When required notices have been properly addressed and deposited in the mail, failure of a party to receive such notice will not be grounds to invalidate any action taken by the Planning Commission or the Board of County Commissioners.
- v. With the notice, the Applicant will provide a time and place for a Neighborhood meeting wherein representatives of the Applicant will provide the existing plans for the system and will provide information and answer public questions about the proposed project. This meeting is to respond to questions so as to make future planning and county meetings more efficient and no result from that meeting, or actions taken from the meeting, shall be deemed to be a reason to allow or deny a special use permit, apart from the fact that the Applicant did not proceed in good faith at the meeting to address public concerns or questions.

2. *Existing Conditions.* A physical and digital site plan of existing conditions showing the following (digital site plan must be formatted to toggle each layer off and on):

- A. Existing property lines and property lines extending one hundred (100) feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties, as determined by site inspection or from the Jackson County Appraiser's Office Land Use map;
- B. All recorded easements on the property, with type and recording information, and the location and width of all public road right-of-way, as shown on County records;

- C. Existing points of ingress and egress to the property;
- D. Location and size of any known wells (oil, water, geothermal, etc.), to the extent the same are available in public records, or are visible on the surface of the property;
- E. Existing buildings and any paved or gravel surfaces, with dimensions;
- F. Contour lines showing the existing topography of the site at one-foot intervals. The source of the topography must be stated. If the site contains any FEMA mapped floodplain, the topography must be tied to the FIRM datum.
- G. Boundaries and designations of any Special Flood Hazard Areas identified on the Flood insurance Rate Map (FIRM) of Jackson County, Kansas;
- H. Existing vegetation (list type and percentage of coverage; i.e. grassland, plowed field, wooded areas, etc.);
- I. Existing swales, channels, ditches or streams, existing ponds and lakes, and existing culverts or other diversion works;
- J. Soil map showing location of soils classified as Class 1 and 2 soils, prime farmland, and farmland of statewide importance as identified in the Natural Resource Conservation Service (NRCS) soil survey;
- K. Map of residential uses and structures within 1000 feet of the facility boundary;
- L. Presence of any critical habitat for threatened or endangered species as determined by the Kansas Department of Wildlife and Parks; and
- M. The location of any underground pipelines and all utility easements; including but not limited to railroad and drainage easements.

3. *Site Plan.* A physical and digital site plan of proposed conditions showing the following:

- A. Number, location and spacing of solar panels and all appurtenant structures. Panel type, fixed or tracking, to be listed on the plan;
- B. Name and address of Operator;
- C. Location and width of access drives;
- D. Planned location of underground and overhead electric lines connecting the solar farm to any building, substation, or other electric load;

- E. Proposed phasing schedule;
- F. New electrical equipment other than at the existing building or substation that is the connection point for the solar farm;
- G. Planned wildlife corridors;
- H. Environmentally sensitive lands to be protected;
- I. Clearly delineated limits of proposed land disturbance or vegetation removal for all phases of construction and operation.
- J. Location and height of any proposed lighting;
- K. Location, height and material composition of fencing;
- L. A description of the method of connecting the Array to a building or substation;
- M. Wiring diagram for the site;
- N. Locations and size of planned temporary construction laydown yards;
- O. Approximate limits of disturbance for all temporary and permanent project components (panels, inverters, access drives, buried electric collection lines, temporary laydown yards, substation, etc.) (Project Area); and
- P. Utility easements including, but not limited to, easements for transmission and interconnection.

4. *Additional Materials.* The following shall be submitted with the application:

- A. A detailed statement of public outreach efforts. Information regarding public outreach, such as how the applicant informed nearby property owners and interested stakeholders in the community, what meetings were held, and/or what information was provided;
- B. Manufacturer's specification and recommended installation methods for all major equipment, including solar panels, mounting systems, and foundations for poles or racks. If a different method of installation was performed for any such equipment, a detailed description of the method employed;

- C. A study of potential construction impacts such as, but not limited to, noise, vibration, lights, waste-management, water supply, etc. and proposed mitigation measures;
- D. A grading/vegetation removal plan which includes all proposed changes to the topography, contour and vegetation on the site (clearing, grading, topographic changes, tree removal, etc.);
- E. A stormwater management plan with supporting calculations, documenting how increased runoff will be conveyed throughout the site. The calculations must include the design of open channels and culverts on site. Based on recommendations from the County Engineer, storage and controlled release at points of discharge from the site may be required; if so, the stormwater management plan must be implemented on the final site plan prior to approval.
- F. A copy of any Interconnection Facilities Studies;
- G. A copy of the interconnection agreement with the any electric utility or agreement allowing transfer of power off-site;
- H. A confirmation that the project will acquire a KDHE approved SWPPP (Stormwater Pollution Prevention Plan) for the site at the appropriate time; and
- I. An operation and maintenance plan which includes measures for maintaining access drives to provide access for emergency vehicles, as well as general procedures for operation and maintenance of the installation;

5. *Traffic and Road Maintenance Plan.* The applicant shall perform a traffic study estimating the volume and type of traffic generated by the project, both during construction and during normal operations. The study must identify proposed haul routes for construction traffic, trucks, and oversize or overweight loads. A traffic and haul route plan based on the recommendations of the County Engineer shall be prepared, along with a resulting maintenance plan of all interior roads and drives, including dust abatement and reduction for haul roads.

Based on the traffic study and the County Engineer's recommendations, the following items may be required prior to approval of the special use permit:

- A. Notes on the plan designating haul routes from the site to a paved county or state highway.
- B. Road maintenance agreement to be executed with the county or township, addressing compensation for road maintenance or dust control on public roadways.

- C. Public improvement agreements to be executed with the county or township, addressing compensation for necessary road, bridge, or culvert improvements on public roadways.
- 6. *Landscaping Plan.* A landscape plan detailing all proposed changes to the landscape of the site to provide for erosion control, buffering or screening for adjacent properties.
  - A. The plan shall include the installation, establishment, and maintenance of buffering or screening landscaping as required.
  - B. A species list shall be provided for all buffering or screening landscaping.
  - C. The landscaping plan shall include management methods and schedules noting how the vegetation will be managed on an annual basis, with particular attention given to the establishment period of approximately three (3) years.
- 7. *Vegetation Management or Agrivoltaic Plan.* A vegetation management and/or agrivoltaic plan detailing all proposed changes to the vegetation of the site and outlining all proposed agrivoltaic uses, current or future.
  - A. The plan shall show where existing vegetation is to be removed and what new vegetation will be planted.
  - B. The plan shall include the installation, establishment, and maintenance of ground cover and other vegetation to minimize erosion, maintain soil health, and accommodate proposed agrivoltaic uses including pollinator and soil health enhancements.
  - C. The plan shall include management methods and schedules noting how the vegetation will be managed on an annual basis, with particular attention given to the establishment period of approximately three (3) years.
  - D. The plan shall identify the types and locations of intended agrivoltaic activities pollinator and soil health enhancements. If the facility is not designed to accommodate agrivoltaic, that should be stated in the plan.
- 8. *Emergency Services, Fire, and Safety Plan.* A plan for management of an Extraordinary Event at the solar installation shall include, but will not be limited to, the following information:
  - A. The project summary, electronic schematics, site plans, emergency ingress/egress, with the location of the access drives and the width and load rating of the access drives.

- B. Emergency contact information; which will also be posted on the site.
- C. Description of how the fire safety system, and its associated controls will function and be maintained in proper working order.
- D. Fire protection and suppression systems for buildings that contain electrical facilities, hazardous material, or compressed gases.
- E. Site control measures during and after any emergency. All means of managing an emergency including shutting down the installation shall be noted and clearly marked.
- F. Procedures for inspection and testing of associated alarms, interlocks, and controls shall be noted on the plan.
- G. Material Safety Data Sheet (MSDS) unless the facility meets the reporting thresholds of Emergency Planning and Community Right to Know (EPCRA) Act in which case the applicant shall provide to submit a Tier II report, if required by the EPA.
- H. Electrical shock hazards and possible contact with hazardous substances or toxic fumes identified.
- I. Any specialty response equipment required to adequately manage Extraordinary Events will be provided, updated, and/or replaced by the operator, as needed and at the operator's expense.

9. *Solar Glare Hazard Analysis.* The applicant shall provide a Solar Glare Hazard Analysis utilizing the latest version of the Solar Glare Hazard Analysis Tool (SGHAT), or its equivalent, to evaluate the solar glare aviation hazard and potential impact on neighbors.

10. *Soil Sampling Plan.* The plan shall outline a procedure to characterize and document the soil health and any heavy metals present at the following phases: before construction begins; when construction is complete, prior to renewing a SUP, prior to beginning decommissioning and reclamation; and following decommissioning/reclamation of the site.

- A. The soil sampling plan shall measure the following:
  1. total carbon (organic and inorganic)
  2. phospholipid fatty acid (PFLA) for soil health; and

3. heavy metals such as lead and cadmium as determined with the review of the special use permit.
- B. The surface soil sample locations shall be established prior to construction and will be utilized for each scheduled sampling event.
- C. A map of sampling sites shall be included with the plan.
- D. A photo for each sample that demonstrates the location within the site and current vegetation shall be provided.
- E. Sampling shall occur at one 25-foot by 25-foot sampling site within each discrete fenced area in a location deemed to be representative of the vegetation and soil conditions for the fenced area.
- F. Subsamples of soil shall be taken of the upper 0-6 inches of soil, with 5 subsamples combined and mixed to form a representative sample for each 25-foot by 25-foot sample site designated on the map.
- G. Additional soil tests and test sites may be required by the County or KDHE at the operator's expense in the event that one or more panels are damaged to the point that leaching may have occurred or if damaged panels were not removed within 30 days. In that case, a sample will be taken at the location of the incident, and a report will be provided to the County Zoning Administrator.
- H. Additional soil test sites may be required from graded areas over 2 acres.
- I. All soil tests shall be conducted at EPA certified labs that are certified for each compound tested. The PLFA may be tested by a non-EPA lab if needed.
- J. Soil remediation plans shall be provided to the Zoning Administrator for review if contamination or soil degradation has occurred. Remediation measures shall be implemented as approved. Remediation shall not be considered complete until the soil testing results are within a range designated by KDHE, as established with the soil remediation plans.
- K. All required soil test results shall be sent by certified mail, with chain of custody, from the testing lab to the zoning and codes office.

11. *Abandonment, Decommissioning, and Reclamation Plan.* A decommissioning/reclamation plan shall be required to ensure that facilities are properly removed after their useful life, or when use is otherwise discontinued. Decommissioning solar panels must occur if they do not produce electricity, and the Operator does not diligently restore the system to operating condition after notice to the County. Decommissioning shall also occur before the final closing of the facility, but before the end of the term of the special use permit. Decommissioning can also be ordered by the Board of County Commissioners on a finding of breach of these regulations or violations of the terms of any permit.

- A. The decommissioning/reclamation plan shall include provisions for removal of all structures, foundations, and underground wiring, and any and all materials foreign to the site prior to installation. All cables buried 36 inches or less underground must be removed. Cables that are deeper than 36 inches may remain if the following requirements are met: a map of the buried lines is provided to One Call, and an affidavit is attached to the deed of the property to note that buried cables, deeper than 36 inches, are present on the property.
- B. The decommissioning/reclamation plan must ensure the site will be reclaimed to a useful, nonhazardous condition without delay including: Regrading to the approximate original contour based on prior topography, with a minimum of ground disturbance, restoration of any topsoil areas that require such, seeding of the land after the removal of equipment, and revegetation of reclaimed soil areas with crops or native seed mixes.
- C. The decommissioning/reclamation plan must provide that soil shall be tested following removal of equipment and compared with preliminary soil testing to evaluate any soil contamination and develop remediation program, if needed.
- D. Concrete and other materials used in the construction of the site must be removed. Disposal of all solid and hazardous waste must be in accordance with local, state, and federal waste disposal regulations.
- E. For any part of the project on leased property, the decommissioning/reclamation plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates or repurposed buildings in place or regarding restoration of agricultural crops or forest resource land. Any use of remaining structures must be in conformance with the regulations in effect at that time.
- F. If the County has issued a notice of abandonment, the permit holder will have one year to complete decommissioning of the utility/commercial scale solar installation and reclamation of the area. Decommissioning and reclamation

shall be completed in accordance with the approved decommissioning/reclamation plan. The County shall review progress and will determine plan compliance and release of any bond or other fund held for the purpose of reclamation or compliance.

- G. The decommissioning/reclamation plan shall include estimated decommissioning costs in current dollars and the method for ensuring that sufficient funds will be available for decommissioning and reclamation, per Paragraph 14, below. The applicant shall provide the basis for estimates of net costs for decommissioning the site (decommissioning costs less salvage value). The cost basis shall include a mechanism for calculating adjusted costs over the life of the project.
- 12. *Ownership Status Disclosure.* Ownership of the location of the real property where the CSECS is placed will be verified by an Owners and Encumbrancers Report from a reputable Title Company. If the Operator is not the owner of the real property, the Disclosures shall state the nature of the rights of the Operator and shall include the lease or other agreement providing for the use by the Operator. The Agreement must be for a term equivalent to any requested Special Use and may only provide for assignment to a party that will undertake all duties under the permit, including those dealing with abandonment, decommissioning and reclamation duties under this Code and the associated permit. The Owners and Operators shall be required to supply notice addresses and emergency contact information, and will be required to update any changes of contact and notice information on a regular basis.
- 13. *Airports or Airstrips.* If a system is proposed to be placed within 5 miles of any military airfield or commercial airport or airstrip, the applicant shall provide evidence of compliance with all Federal and State laws and regulations as it relates to these airfields, airstrips or airports.
- 14. *Insurance and Decommissioning Fund.*
  - A. Liability Insurance. Applicants shall provide general liability insurance, showing general liability insurance coverage for the lifespan of the project encompassing installation and operation through decommissioning. Evidence shall be provided annually in the form of a certificate of insurance.
  - B. Property Insurance. Applicants shall provide property insurance, showing coverage of the value of all facilities and improvements. Evidence shall be provided annually in the form of a certificate of insurance.

C. Decommissioning Fund Requirement. The applicant shall provide an amount of escrowed funds, or an irrevocable letter of credit, for the benefit of and controlled by the Board of County Commissioners, in an amount equal to the estimated decommissioning costs, to ensure proper decommission and reclamation of the site.

- i. The Owner shall contract, as part of and as outlined in its Reclamation Plan, with an independent third party for reclamation services and monitoring of the site for necessary modifications of the Reclamation Plan. This contractor's qualifications shall be reviewed by the Zoning Administrator and shall only perform services after approval by the Board of County Commissioners.
- ii. The escrowed funds or Letter of Credit shall be posted prior to the commencement of construction. The form of the escrow shall be by written agreement granting full authority to the County to use escrowed funds upon failure of any condition of the special use permit, repeated violations of the County Zoning Code or the abandonment of the site. No exercise of the rights of the County under this provision shall serve as a release of the Owner or Applicant of any duty under this Code or any agreement between the parties.
- iii. The fund shall include a mechanism for adjustment of the Fund over the life of the project.
  - (a) The Escrow Fund or Letter of Credit shall be adjusted for inflation annually by increasing the fund or Letter of Credit commensurate with the increase in the Consumer Price Index (CPI-U) for the unadjusted 12 months prior to the anniversary date of the Fund, however, no reduction or credit shall be maintained by any decrease in the Index.
  - (b) The Solar Facility owner or operator shall engage the third-party reclamation contractor to recalculate the estimated cost of decommissioning at an interval of every three years, and every year for the final five years of the SUP. If the recalculated estimated cost of decommissioning and reclamation exceeds the previous estimated cost of decommissioning and reclamation, then the owner or operator shall adjust the Letter of Credit, or deposit additional funds, to meet the new cost estimate. If the recalculated estimated cost is less than the previous estimated cost of decommissioning and reclamation, then the County may approve reducing the amount of the fund, upon application of the Owner.

- (c) In no event shall the Applicant, Owner or any reclamation contractor offset the cost of reclamation by crediting the value of sale, trade or recycling of any facilities, equipment, panels, property or other materials contained or used on the property.
- iv. In the event the operator is in material non-compliance with these, or other, regulations of the County, or is in breach of any of the contractual undertakings that are required under these regulations, the County shall have the right to call reduce the escrow fund to its sole possession, or call on the Letter of Credit, and use it for decommissioning and/or reclamation purposes. Should there be any remaining balance after completion of decommissioning and reclamation; the County shall have the right to withhold payment of any remaining funds until all obligations of the Owner and Operator have been satisfied.
- v. The decommissioning and reclamation plan prepared for the property shall be structured so as to complete all decommissioning and reclamation duties under the plan within Five (5) years of any event, outlined in these regulations, where the use will be discontinued. As the operator completes decommissioning and reclamation duties under the plan, the owner or operator may apply for distributions from the escrow fund or reductions in a letter of credit, based upon the level of completion, but only where the County's inspector, zoning administrator and majority of the Commissioners agree to payment from the fund or reduction in the credit instrument based upon progress in the reclamation process. However, in no instance may the remaining funds amounting to 1/3<sup>rd</sup> of the escrow fund at its commencement or letter of credit be reduced to less than 1/3 of its original amount, until the completion of all reclamation and the above-noted Five (5) year period has passed.

**SECTION 5. CONSTRUCTION AND OPERATIONS INSPECTION; OWNER AND OPERATOR DUTIES:** Upon grant of a Special Use Permit, and in the construction of the CSECS system, both the property owner and system operator shall have continuing duties to maintain the site, comply with these regulations and conform to the Plans and Specifications provided in the process of the grant of the permit.

1. *Construction Phase Duties and Requirements.* After approval of the permit, and during construction of the system, the operator and owner shall:
  - A. Construction Inspection. The owner and operator shall allow County agents, officials, employees and contracted inspectors access to the property at all reasonable hours for inspection of the construction process for compliance with

all regulations and filed plans for the system. If, at any time, the Board of County Commissioners deems, through inspection, that the construction activities present a danger to public safety, severe environmental damage, substantial non-compliance with these regulations so as to evidence a willful failure to comply or excessive and damaging conditions exist to the harm of other property, the operator and owner, upon a notice from the Commissioners to halt construction, shall immediately discontinue construction and address compliance and remediation of the harmful conditions or correction of all deficiencies to bring the project back into compliance. If the owner and/or operator shall fail to remedy the conditions or address non-compliance in a timely manner, as determined by the Commission in its sole discretion, the Board of County Commissioners, upon notice to the owner and/or applicant, shall have a hearing on these violations and determine, by majority vote, that the project should be halted and any Special Use Permit granted should be revoked. Upon such revocation, the County may engage any bonds or undertakings to restore the property and further enforce this regulation.

- B. Stormwater and Drainage Management. Temporary construction barriers and erosion protection control shall be installed in accordance with planning documents and at the boundary of protected environmentally sensitive lands. These structures must remain in place until construction is complete. Changes in the stormwater plan must be approved before being employed on site.
- C. Emergency Planning. The Operator shall update the Emergency Services and Fire Safety Plan annually in collaboration with Emergency Management, and provide new copies to the system owner, the local fire district, emergency response agencies, Jackson County Emergency Management, and the Zoning Office. Annual Emergency and Extraordinary Event response training will be provided for all emergency response stakeholders on the plan, site, equipment, and processes required to assure their safety and effective management during an event.
- D. Ground Water Testing. With each approved CSECS special use permit application, an optional water analysis of active wells within one-quarter mile of the Site Area shall be offered by the operator prior to the installation of the equipment.
- E. This offer shall be made to all owners of property within 1/4 mile of the Site Area by certified mail, at least one month prior to the start of construction.
- F. A copy of the certified letter and a list of property owners notified shall be provided to the Zoning Administrator along with a list of all property owners who requested the testing and the results of that testing.

- G. The test shall analyze the water in the nearby wells for substances such as lead and cadmium, as determined with the special use permit, and shall include a pesticide panel.
- H. The results of ground water testing shall be provided to the County Zoning Administrator and sent by certified mail to the landowner.

2. *Post Construction and Operation Inspection.* The solar facility shall be reviewed for compliance with the standards of the special use permit 1 year after release of Certificate of Occupancy and every 3 years thereafter through the life of the special use permit. If the solar facility is found to be non-compliant with these regulations or any filed plan for the use of the property, the inspector and Zoning Administrator shall confer regarding the violations and any corrections required. If necessary, the owner or operator of the solar facility may file amended permits or plans to memorialize any agreements or necessary changes resulting from this meeting. If the parties cannot agree on the nature of a violation, the need for correction or the method of compliance, the Board of County Commissioners shall, upon notice to the owner and/or operator, hold a hearing for the purpose of determining compliance and required action. If the Commissioners issue an order from said hearing, and if not complied with by the owner/operator within the time set by the Commissioners, the Commissioners may revoke any Special Use Permit and obtain any funds or undertakings to restore the property and decommission the site.

3. *Assessment of Administrative Costs of Inspection and Compliance.* Upon submission of an application for a project, the Operator or Owner shall deposit the amount of \$10,000.00 as an advance upon an assessment for the cost of administration by the County of inspection of the project and enforcement of this Code. The County Zoning Administrator shall establish, upon submission of an application, an assessment amount due for inspections and actions by the County preliminary to approval, and apply the deposit to the same, with any deficiency to be paid by the Applicant within Thirty (30) days of notice. If the deposit exceeds the assessment amount, the same will be held to be credited against future administrative costs, or returned to the Applicant if the Permit is rejected. The County Zoning Administrator shall also determine and establish an annual assessment based upon a determination of the administrative costs of inspection and enforcement needs of the project over the term of the Special Use Permit, the payment of which shall be a condition of the permit.

4. *Amendment, Expansion and/or Modification.* Any proposed expansion of the facility, amendment to the permit or modification of any plans or reports within the permit will require review and approval first by the Planning Commission, and also with the approval of the County Commission.

A. Modifications. Upon a written request by the operator showing modification is necessary and is consistent with the purpose and intent of

these regulations, the Planning Commission shall make recommendations to the Board on requested modifications in conjunction with their recommendation on the special use permit.

- B. Types of Modifications. Items that are available for modification are the location of the facilities within the property if not expanded, height of the solar panels, amount of grading possible, and the location (above- or below-ground) of electrical interconnections and distribution lines.
- C. Minor Modifications. Modifications which do not increase the Site Area or the area for accessory equipment, do not extend to other properties or do not require alteration of any established Plan may be approved by the Zoning Administrator.
- D. Amendments to conform to As-Built status. Upon review by the Zoning Administrator and after engineering review and inspection, the permit, plans and/or any specification may be altered to conform to the project as built, as long as the same does not violate any building code, regulation or standard applicable to the location.
- E. Amendments to the Permit. Other changes or amendments to the Permit must be obtained from the County Planning Commission upon application with a requirement for a public hearing on the amendments.
- F. Expansion. An owner or operator may apply for expansion of a project under unified ownership with the Project Extent, if the expansion does not exceed existing area limits, setbacks and other restrictions, and the new area complies in all respects with the existing plans and specifications filed with the original permit, or supplies supporting documentation that fulfills these requirements for the new area.

5. *Transfer of Operator, Sale of Property by Owner and Abandonment.*

- A. Operator Transfer. If the Operator listed on the approved Permit plans to sell or otherwise transfer their operational responsibilities to another entity not listed on the SUP, the listed Operator shall notify the Zoning Administrator of this proposed change. Furthermore, the new Operator shall notify the Board of County Commissioners and any insurer, surety or party responsible for any undertaking for the project, in writing, acknowledging their acceptance of responsibility and intent to comply with all conditions listed in the approved Permit. The Board of County Commissioners may approve the transfer of operator if they find the proposed Operator has demonstrated their ability to strictly conform to all applicable performance standards detailed in these Regulations as well as

applicable Local, State, and Federal laws or regulations. The County reserves the right to impose additional bonding, insurance and surety requirements for any new operator, and deny or condition any release of any existing bond, insurance policy, surety or other undertaking by the existing operator. In no instance shall the transfer of operator responsibility or of a permit release the original operator from any duties or responsibilities under these regulations.

- B. Property Sale. The owner of property may sell the real property subject to any lease or where a project exists, only upon informed consent of the new owner and a signed undertaking as owner by the purchaser to conform with all ownership elements of this Code.
- C. Project Abandonment. The County Zoning Administrator shall issue a Notice of Abandonment to the owner/operator of the facility if the Administrator determines a violation of the terms of the permit or these regulations have occurred or evidence of a shutdown of more than 10 days. The owner/operator must respond to the Notice of Abandonment within 30 days from the Notice receipt date. The Notice of Abandonment will be withdrawn if the owner/operator provides sufficient information to demonstrate that the facility has not been abandoned, which may include documentation or certification by the owner/operator of the local electric utility, or that the owner/operator of the facility is actively pursuing a plan, including specified steps and a proposed schedule to bring the facility back into service.

6. *Noncompliance and Penalty.*

- A. Prohibited Acts and Conduct. From and after the effective date of these regulations, no person shall violate any provisions of these regulations, or fail to comply with any of its requirements, including, but not limited to, any conditions or terms established in connection with grants of variances or any other permits or allowances by the County, and any act, conduct or use which fails to comply with the provisions of these regulations and any codes, rules or standards adopted as a part of these regulations, shall be and hereby is declared to be unlawful as a violation of the Codes and Regulations of Jackson County.
- B. Criminal Offenses. The maintenance or operation of any solar project or facility without a permit under these regulations, or continuation of operation after revocation of any permit or allowance, shall be a misdemeanor punishable by a minimum fine of \$500.00 and/or imprisonment of not more than Six (6) months. Each separate day a

violation exists or occurs shall be deemed a separate offense, subject upon conviction to an additional fine and penalty.

- C. Other Penalties. Upon determination of noncompliance by the County Commission, and separate and apart from any criminal penalties or enforcement, the County may revoke an existing permit, order the discontinuation of any use, invoke coverage under any bond document or otherwise seek enforcement of these regulations by closure of the project and reclamation of the project.
- 7. *Extraordinary Events.* The Operator and Owner shall have the following duties upon an extraordinary event:
  - A. Within 3 days of an extraordinary event, the Operator shall provide written notice of the event to the County Zoning Administrator, noting the cause and the degree of damage associated with the event.
  - B. Within 30 days of the event, the Operator shall provide the Zoning and Codes Director with a mitigation plan noting the steps they will take to mitigate any negative impacts. Additional mitigation steps may be required by the Zoning and Codes Office. Failure to timely submit a plan, or to obtain an extension of time, may result in contact with the Surety to engage a plan to address any damage and deem the Operator to be in violation of the Permit.
- 8. *Special Use Term.* The special use permit may be approved for a period of Twenty (20) years from the date of the Board of County Commissioners approval. The term may be extended upon application by the Operator and Owner for a period of Ten (10) years, if the Board of County Commissioners find that the Operator and Owner have substantially complied with the Special Use Permit terms. Continuation of the use beyond that time will require the submission and approval of a new special use permit.
- 9. *Affidavit.* Upon issuance of a permit for a Special Use, the County shall file an affidavit with the Register of Deeds on all the properties governed by Special Use Permit, which includes a copy of the Special Use Permit and any documents showing conditions on the permit not stated in the Permit itself. Filing fees will be covered by the applicant.
- 10. *Unified Special Use Permit.* The projects allowed as solar systems by the regulations may span several separate tracts of property, but are to be deemed to be one integrated special use permit. All parcels under said Permit are integral and necessary to the continuation of the permit, and any violation or conflict on any one parcel of property shall subject the whole of the permit to enforcement under these regulations.

11. *Provisions applicable to LSECS.* A permit for Limited Scale Solar Energy Conversion System (LSECS) shall be required to only comply with the above provisions in obtaining a Special Use Permit: Section 1, 2, 3 (Subsections 1-7, 8:A,C and F, Subsections 12 and 13 only) Section 4 (Subsections 12, 14: A and B only) and Section 5 (Subsections 6 and 7 only).

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### ***“R-E” RENEWABLE ENERGY CONVERSION SYSTEMS “RECS” OVERLAY DISTRICT***

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:** The “R-E” Renewable Energy Conversion Overlay District is intended to ensure a regulatory means of facilitating renewable energy development by establishing designated project areas; and at the same time provide a regulatory response to the demands of neighbors and the general public whose interests may be detrimentally affected by renewable energy generation and transmission operations.

**SECTION 2. DISTRICT REGULATIONS:** No renewable energy conversion system shall be developed, erected or placed in use in any area of the Jackson County zoning jurisdiction not within an approved overlay district, except that a private system may be allowed by right upon a finding by the Zoning Administrator that the RECS is a small “home” RECS.

1. A home RECS shall be allowed by right upon a finding by the Zoning Administrator that the proposed RECS meets the following requirements.
  - A. A single RECS erected on an owner-occupied parcel of land for private use.
  - B. Residential turbine tower no taller than 150 feet in height.
  - C. Residential turbine tower setback from the nearest property line no less than the height of the turbine tower, plus 50 feet.
  - D. Residential turbine tower no closer than 500 feet from the nearest neighboring residential dwelling.
  - E. Residential/Farm/Commercial ground mount solar panel system no taller than 35 feet in height.
  - F. Residential/Farm/Commercial ground mount solar panel system setback from the property line no less than the minimum parent district yard regulations.
  - G. The applicant for a private use system shall provide with the application a site plan in sufficient detail to allow the Zoning Administrator to determine compliance.

**SECTION 3. INTENSITY OF USE RELATIONS:** Except as hereinafter provided, all structures hereafter erected, enlarged, relocated or reconstructed shall be located

upon owner-occupied parcels or within project overlay districts containing the following areas:

1. A home RECS shall be defined as 1 acre (43,560 square feet) or less.
2. A Commercial Scale System shall be defined as 5 acres or more.

#### **SECTION 4. SPECIAL USE REGULATIONS:**

1. All RECS development, other than a small private use system, will require submittals to the Jackson County Planning Commission and Governing Body for the Development Plan approval and establishment of an overlay zone. Such plan shall meet detailed requirement of Jackson County.
2. The Development Plan shall be written in a style that is easily understood by the general reader. Technical terminology shall be avoided as much as possible. Detailed technical data, statistics, and supplementary information required to support the main text is to be referenced and must be current. Information presented in the form of maps, diagrams, or plans is preferred, as the general reader finds it easier to understand. The maps, information surveys and studies must be submitted as part of the Special Use Permit (SUP) application and Development Plan. Jackson County may adjust the standards for future projects based on considerations such as, the results of monitoring environmental impact, the success or failure of remedial actions required in connection with decommissioning processes and changing technology in renewable energy conversion systems.
3. If approved, one SUP shall be issued with respect to all tracts within the boundaries of the proposed RECS overlay district. Notice of the submission of the application for a RECS SUP shall be given by the Zoning Administrator to the owners of each tract of land within the boundaries of the proposed RECS and to the owners of each parcel of land located within 1000ft of the boundary of the proposed RECS.

2. Addition to the Zoning Regulations. The Amendments made by this Resolution shall be as a supplement to the Zoning Regulations of Jackson County, Kansas.

3. Invalidity. If any section, clause, sentence or phrase of this Resolution or of the Amendments adopted hereby is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this Resolution or the Amendments adopted hereby, as the case may be.

4. Repeal. The Zoning Regulations heretofore adopted that are in conflict with this Text Amendments are amended, repealed, or replaced.

5. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Board and its publication once in the official County newspaper.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**BOARD OF COUNTY COMMISSIONERS  
JACKSON COUNTY, KANSAS**

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**KEITH KELLY, CHAIR**

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**DAN BRENNER, COMMISSIONER**

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**MARK PRUETT, COMMISSIONER**

**ATTEST:**

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**KRISTIE RICHTER, COUNTY CLERK**