

ARTICLE 15 - Solar Energy Conversion System Regulations

SECTION 1501. INTENT: In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of York County, Nebraska, the County finds these regulations are necessary in order to ensure that all solar energy conversion systems (SECS) are appropriately designed, sited and installed. These regulations pertaining to all solar energy conversion systems are intended to respond to equipment available at the time of adoption. York County recognizes that this is an emerging technology and that new means of collecting energy are under development. Accordingly, these standards will be reviewed and may be amended as technology advances. In spirit of the York County Comprehensive plan, it is understood that such systems would be an exception to the intended land use but would be considered for a Conditional Use Permit on an individual application basis. Further, the aggregate amount of all Class 3 and Class 4 renewable energy projects shall not exceed a total acre footprint of more than 1% of Agriculturally Taxable acres in York County.

SECTION 1502. TYPES OF SOLAR CONVERSION SYSTEMS: The following is a comprehensive list of each type of solar conversion system that is allowed pursuant to these regulations.

- A. CLASS 1 – Individual/Acreage Solar Energy Conversion System (SECS) -** A SSECS which has a rated capacity of up to one hundred (100) kilowatts and which is incidental and subordinate to another use of the same parcel. A system is considered a small solar energy system only if it supplies energy for site use, except that when a parcel on which the system is installed also received electrical power supplied by a utility company, excess electrical power generated and not presently needed for onsite use may be sold back to the utility company. To be used in conformance with Nebraska State Statutes 70-2001 through 70-2005, regarding the net metering of distributed generation systems of 25 kilowatts and less.

- B. CLASS 2 – Small Commercial Solar Energy Conversion System (CSECS) -** A CSECS which has a rated capacity greater than one hundred (100) kilowatts to one (1) megawatt, under a common or aggregated ownership that includes substations, cables/wire, convertors and other building accessories, whose main purpose is to supply electricity to on and off-site customers. CSECS may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CSECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

- C. CLASS 3 – Medium Scale Commercial Solar Energy Conversion System (CSECS) -** A CSECS which has a rated capacity greater than one (1) megawatt to five (5) megawatts, under a common or aggregated ownership that includes substations, cables/wire, convertors and other building accessories, whose main purpose is to supply electricity to off-site customers. CSECS may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CSECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

- D. CLASS 4 – Large Scale Commercial Solar Energy Conversion System (CSECS) - A** CSECS which has a rated capacity greater than five (5) megawatts, under a common or aggregated ownership that includes substations, cables/wire, convertors and other building accessories, whose main purpose is to supply electricity to off-site customers. CSECS may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CSECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

SECTION 1503. DEFINITIONS

- A. Aggregated Project: Those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual CSECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.
- B. Accessory Solar Energy System: Systems which are accessory to the principal use on a property and designed to supply energy solely for the principal use.
- C. Church: A building that houses a religious organization or congregation that meets in a specific location with constitutions and by-laws and is a qualified 501(c)(3) organization.
- D. Commercial Solar Energy Conversion Systems (CSEC): A system designed to supply energy for off-site users on the distribution grid, or to export to a wholesale market via connection to the electric transmission grid.
- E. Feeder Line: Any power line that carries electrical power from one or more solar collectors or individual transformers associated with individual solar energy collection to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems serving the CSECS.
- F. Ground Mounted Panels: Freestanding solar panels mounted to the ground by use of racking, piling, piers, stabilizers, or similar apparatus.
- G. Grid-Tied Solar System: A photovoltaic solar system that is connected to an electric circuit served by an electrical company.
- H. Off-Grid Solar System: A photovoltaic solar system in which the circuits energized by the solar system are not electrically connected in any way to electric circuits served by an electric utility company.
- I. Height, Total System: The height above the grade of the system including the unit and the measured highest vertical extension of any portion of the SECS.
- J. Meteorological Tower / Measuring Devices: For the purpose of collecting data used to monitor solar energy or other data relevant to locating a SECS.

- K. Non-participating Property: Any property that is not the subject of an agreement with the Solar Energy Conversion System Owner or Operator.
- L. Participating Property: Any property that is under lease or other property agreement with the Solar Energy Conversion System Owner or Operator.
- M. Photovoltaic System: An active solar energy stem that converts solar energy directly into electricity.
- N. Rooftop or Building Mounted Solar Energy System: A solar energy system that is mounted to the roof or building using brackets, stands, or other apparatus.
- O. Solar Collector (Accessory): A device, structure or a part of a device or structure that the principal purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
- P. Solar Glare: The glare effect that occurs when the sun reflects on the conversion system and that can affect people or near-by properties.
- Q. Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- R. Solar Energy System (SES): An aggregation of parts including bases, structures, panels, converters, generators and configuration necessary to convert the power of solar into mechanical or electrical energy; e.g. photovoltaic, heat, etc.
- S. Substation: Any electrical facility utilized to convert electricity produced by a SES for inter-connection with high voltage transmission lines.
- T. Transmission Line: The electrical power lines that are high voltage transmission lines carrying electricity over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
- U. Yard, Front: A yard extending from the front lot line of the SECS and adjoining a public street or road to the front of the SECS between side lot lines.
- V. Yard, Rear: A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the SECS.
- W. Yard, Side: A yard between the SECS and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point required minimum open space between the property line and the SECS.

SECTION 1504: Class 1 – Individual/Acreage Solar Energy Conversion System: A SSECS which has a rated capacity of up to one hundred (100) kilowatts and which is incidental and subordinate to another use of the same parcel. A system is considered a small solar energy system only if it supplies energy for site use, except that when a parcel on which the system is installed also

received electrical power supplied by a utility company and excess electrical power generated which is not presently needed for onsite use may be sold back to the utility company. To be used in conformance with Nebraska State Statutes 70-2001 through 70-2005, regarding the net metering of distributed generation of 25 KW and less.

A. General Site and Design Standards

1. Located on a lot or parcel of at least two (2) acres; or in the event of an existing non-conforming lot prior to zoning may be less.
2. May be permitted as an accessory use within a district and approved by the Zoning Administrator, in the AG, RR, ICI, RCI, WDI and AHO Zoning Districts, provided that all requirements set forth in the application process have been met.
3. Minimum Yard Requirements:
 - a. No structure shall be placed within the high-water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM), the Federal Emergency Management Agency (FEMA) Flood Data, or any other applicable Federal agency, as Special Flood Hazard Areas, unless the base or footings to such structure are at least one (1) foot above such high water mark.
 - b. Yard requirements are as follows:
 - i. Front Yard: There shall be a minimum front yard of not less than a distance of fifty eight (58) feet measured from center line of road or twenty five (25) feet from the highway right of way, whichever is greater, in conformance with Section 501.10
 - ii. Rear Yard: No limitations; unless abutting a R Residential District then the minimum yard shall be ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be seventy-five (75) feet, unless the right of way is greater.
 - iii. Side Yard: No limitations; unless abutting a "R" Residential District then the minimum yard shall be five (5) feet or unless abutting an improved county road, state, or federal highway, then the minimum rear yard shall be seventy-five (75) feet, unless the right-of-way is greater.
 - c. Waiver of Requirements: Minimum rear, front and side yard setback requirements may be waived and lessened by agreement between adjoining landowners provided that:
 - i. Said agreement for waiver is made in writing and signed by all involved landowners;
 - ii. Said agreement is presented to the Zoning Administrator upon application for zoning permit and approved as to form and content by the Zoning Administrator; and
 - iii. Said agreement shall be recorded in the York County Register of Deeds Office, indexed to the affected properties.
4. SSECS shall maintain a minimum setback distance from any public road of at least seventy-five (75) feet measured from center line of road or the highway right of way, whichever is greater.

5. Structures shall meet applicable industry structural codes, shall be neutral in color and shall not be used to display advertising.
6. SSECS shall meet all requirements for placement with the Federal Aviation Administration (FAA).
7. All electrical wires associated with a SSECS other than the wires necessary to connect the junction box and the grounding wires shall be located underground.
8. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A structure may not have step bolts or a ladder within eight (8) feet of the ground that is readily accessible to the public.
9. The owner of a SSECS shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone, internet or television signals caused by the facility. Any interference shall be alleviated within three (3) months of any party becoming aware of said interference.
10. Construction sites must be re-graded and re-vegetated to minimize environmental impacts.
11. SSECS application must include a detailed plan during the application process that states all equipment, support structures, electrical equipment and fences will be removed upon the discontinuance of the system's operation.
12. Solar panels shall conform to the required front, side, and rear lot setback requirements, except as provided herein:
 - a. A solar panel which is attached to an integral part of the principal building may project two feet into the front yard; six feet into the rear yard; and two feet into the side yard.
 - b. A solar panel which is freestanding shall be located only in the required rear or side yard provided it does not exceed 12 feet in height and not closer than five feet to any existing easement as measured from the closest point of structure including the foundation and anchorage's nor shall the solar panel be located in the required front yard.
 - c. The physical structure and connections to existing structures shall conform to the applicable state building and electrical codes.
 - d. Comply with any and /or all State and Federal regulations, if applicable.
13. Pre-Existing Solar Panels, as of January 1, 2024 may continue to be utilized so long as continuously maintained in operational condition.

B. Application Requirements for Class 1 – Individual/Acreage Energy Conversion Systems:

1. Application Requirements must include:
 - a. The name (s) of project applicant.
 - b. Name of the project owner (s).
 - c. The legal description and address of the project.
 - d. A fee of \$25 to be paid to the York County Treasurer.

- e. A description of the project including: number, type, nameplate generating capacity, agreement and means of interconnecting with the electrical grid.
- f. Site layout, including the location of property lines, easements, wetlands, protected area, solar panels, electrical grid and all related accessory structures. This site layout shall include distances and be drawn to scale and in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- g. Certification by an Engineer competent in disciplines of solar energy.
- h. Documentation of land ownership or legal control of the property.
- i. Set-back waivers, if applicable.
- j. Location of wetlands, designated scenic area and natural areas within 1,320 feet of the proposed solar panels.
- k. Vegetation management plan dealing with overgrowth and soil stabilization and sterilization.
- l. The applicant shall supply the York County Emergency Management Agency and local fire departments, with a basic emergency response plan and a map showing all shut offs, disconnects, valves, etc.
- m. Evidence provided by Engineer / Architect, or equivalent that there will be no interference with any commercial and or public safety communication towers.
- n. Proof of Liability Insurance
- o. Discontinuation and Decommissioning Plan that states all equipment, support structures, electrical equipment and fences will be removed upon the discontinuance of the systems operation.

SECTION 1505. Class 2 – Small Commercial Solar Energy Conversion System (CSECS): A

CSECS which has a rate capacity greater than hundred (100) kilowatts to one (1) megawatt under a common or aggregated ownership that includes substations, cables/wire, convertors and other building accessories, whose main purpose is to supply electricity to on and off-site customers. CSECS may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CSECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also part of the aggregated project.

A. General Site and Design Standards:

- 1. Located on a lot or parcel of at least three (3) acres but no more than ten (10) acres.
- 2. May be permitted by a Conditional Use Permit to be issued in the AG, ICI, or RCI Zoning Districts
- 3. Minimum Yard Requirements:
 - a. No structure shall be placed within the high-water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM), the Federal Emergency Management Agency (FEMA) Flood Data, or any other applicable Federal agency, as Special Flood Hazard Areas, unless the base or footings to such structure are a least one (1) foot above such high water mark.
 - b. Setbacks in General Ag (AG) zoned areas:
 - i. From Public Road: CSECS shall maintain a minimum setback distance from any public road of at least one hundred and eight (108) feet

measured from center of road or the highway right of way, whichever is greater.

- ii. From Participating Property: No setback is required between an adjacent residence of a property participating, in the same aggregated project.
 - iii. From Non-Participating Property: CSECS shall maintain a minimum setback of one hundred fifty (150) feet from property line, so long as an existing dwelling is not located on the non-participating property.
 - iv. From Non-Participating Existing Dwelling: CSECS shall maintain a minimum setback of 330 feet (1/16 mile) from property line.
 - v. From Churches and Public Schools: CSECS shall maintain a minimum setback of one hundred fifty (150) feet from property line.
 - vi. From Cemeteries: CSECS shall maintain a minimum setback of one hundred fifty (150) feet from property line.
 - vii. State Recreation Areas: CSECS shall maintain a minimum setback of one hundred fifty (150) feet from property line.
 - viii. From Approved Platted Subdivisions: CSECS shall maintain a minimum setback of 330 feet (1/16 mile) from property line.
- c. Setbacks in Commercial Corridors (ICI/RCI):
- i. From Public Road: CSECS shall maintain a minimum setback distance from any public road of at least fifty-eight (58) feet measured from center of road or twenty-five (25) feet from the highway right of way, whichever is greater.
 - ii. From Participating Property: No setback is required between an adjacent residence of a property participating, in the same aggregated project.
 - iii. From Non-Participating Property: CSECS shall maintain a minimum setback of fifty (50) feet from property line, so long as an existing dwelling is not located on the non-participating property.
 - iv. From Non-Participating Existing Dwelling: CSECS shall maintain a minimum setback of seventy-five (75) feet from property line.
 - v. From Churches and Public Schools: CSECS shall maintain a minimum setback of fifty (50) feet from property line.
 - vi. From Cemeteries: CSECS shall maintain a minimum setback of fifty (50) feet from property line.
 - vii. State Recreation Areas: CSECS shall maintain a minimum setback of fifty (50) feet from property line.
 - viii. From Approved Platted Subdivisions: CSECS shall maintain a minimum setback of fifty (50) feet from property line.
- d. Waiver of Setback Requirements: Setback requirements may be waived and lessened by agreement between adjoining landowners provided that:
- i. Said agreement for waiver is made in writing and signed by all involved landowners;
 - ii. Said agreement is presented to the Zoning Administrator upon application for zoning permit and approved as to form and content by the Zoning Administrator; and
 - iii. Said agreement shall be recorded in the York County Register of Deeds Office, indexed to the affected properties.

4. Structures shall meet applicable industry structural codes, shall be neutral in color and

shall not be used to display advertising.

5. All CSECS shall use either anti-glare or anti-reflective panels.
6. CSECS shall meet all requirements for placement with the Federal Aviation Administration (FAA).
7. CSECS shall provide visual screening for adjacent non-participating parcels, public park uses and school uses: Fences, walls, berming, vegetation or some combination thereof to provide visual screening shall be used. Fencing, walls or berming may be used to supplement other screening methods, but shall not account for over fifty percent (50%) of the screening. Existing natural features, topography and vegetation may be used to achieve visual screening if provided in accordance to the visual screening requirements provided herein.
 - a. If the visual screening is for adjacent non-participating residential uses, it shall be provided as follows:
 - i. If the screen is required, the screen shall cover one hundred percent (100%) of the surface area of a vertical plane extending along the property line adjacent to the SCECS from the ground to a height of at least eight (8) feet above the adjacent ground.
 - b. If the visual screening is for adjacent non-participating public park or school uses, it shall be provided as follows:
 - i. The screen shall cover at least seventy percent (70%) of a vertical plane extending along the entire property line adjacent to the CSECS from the ground to a height of at least eight (8) feet above the adjacent ground.
 - c. If the visual screening is achieved through a fence or wall, it shall be provided along the property line and the front road as follows:
 - i. Acceptable fence and wall materials for visual screening include masonry, stone and wood, but exclude chain link fences (with or without slats.) Alternative fence and materials being used for screening must be approved the Zoning Administrator.
 - d. If the visual screening is achieved through berming it shall be provided along the property line as follows:
 - i. The side slopes shall not exceed three to one (3 to 1), horizontal to vertical.
 - ii. The mounded ground surface shall be protected to prevent erosion through the use of turf lawn or other alternative groundcovers.
 - e. If the visual screening is achieved through vegetation, it shall be provided along the property line as follows:

At a rate of at least ten (10) trees every one hundred (100) linear feet. Of the ten (10) trees every one hundred (100) linear feet, at least one (1) shall be a deciduous shade tree and three (3) shall be evergreen or ornamental trees. The trees shall be evenly distributed within each one hundred (100) linear feet section.

 - i. At least two-thirds (2/3), but no more than three quarters (3/4) of the total ornamental/evergreen trees along the property line shall be made up of evergreen trees.
 - ii. Each tree shall have a minimum mature height of fifteen (15 feet).

- iii. Must maintain the original standard of planting.
 - iv. Seedling are not acceptable and are not to be used for screening purposes. The trees used must also be considered a growing tree.
 - f. Visual screening is not required along the property line adjacent to a Participating property.
- 8. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. All electrical wires associated with a CSECS other than the wires necessary to connect the disconnect junction box and the grounding wires shall be located underground.
- 9. The owner of a CSECS shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone, internet or television signals caused by the facility. Any interference shall be alleviated within three (3) months of any party becoming aware of said interference.
- 10. Construction sites must be re-graded and re-vegetated to minimize environmental impacts and the plan must be submitted with the application.
- 11. Each CSECS system application shall have a decommissioning plan outlining the means, procedure and costs of removing all related support infrastructure. This plan must be submitted with the application, and state all equipment, support structures, electrical equipment and fences will be removed upon discontinuance of the system's operation within one (1) year.
- 12. The CSECS shall comply with any and/or all State and Federal regulations, if applicable.
- 13. Each CSECS must have a 911 address. The address shall be determined by the parcel number the property lies within as identified by the York County Assessor's office.
- 14. The CSECS shall be designed and placed in such a manner to minimize adverse visual and noise impacts on adjacent areas. Such things as screenings, fencing, vegetation, trees, shrubs and pollinator plantings can be used, however such design should be included in the application documents.
- 15. In no case shall a CSECS be located within any required setback or in any front yard area; except that a non-participating landowner can waive a setback requirement by a written agreement submitted at the time of the application. Such agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the York County Zoning Administrator prior to approval of the permit.
- 16. Structures for the CSECS project must provide a structural analysis, stamped by a licensed engineer registered in the State of Nebraska.
- 17. Colors and surface treatment of the CSECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site. No logos or advertisements are allowed on these structures. The project shall be marked with a

visible identification number applicable to the project with current contact numbers.

18. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as potential glint or reflections which affect residences within or immediately adjacent to the project area.
19. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any solar energy facility.

B. Application Requirements for Class 2 – Small Solar Energy Conversion Systems:

1. Application Requirements must include:

- a. The name (s) of project applicant.
- b. Name of the project owner (s).
- c. The legal description and address of the project.
- d. A fee of \$25 to be paid to the York County Treasurer.
- e. A description of the project including: number, type, nameplate generating capacity, agreement and means of interconnecting with the electrical grid.
- f. Site layout, including the location of property lines, easements, wetlands, protected area, solar panels, electrical grid and all related accessory structures. This site layout shall include distances and be drawn to scale and in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- g. Certification by an Engineer competent in disciplines of solar energy.
- h. Documentation of land ownership or legal control of the property.
- i. Set-back waivers, if applicable.
- j. Location of wetlands, designated scenic area and natural areas within 1,320 feet of the proposed solar panels.
- k. Vegetation management plan dealing with overgrowth and soil stabilization and sterilization.
- l. The applicant shall supply the York County Emergency Management Agency and local fire departments, with a basic emergency response plan and a map showing all shut offs, disconnects, valves, etc.
- m. Evidence provided by Engineer / Architect, or equivalent that there will be no interference with any commercial and or public safety communication towers.
- n. Proof of Liability Insurance
- o. Discontinuation and Decommissioning Plan that states all equipment, support structures, electrical equipment and fences will be removed upon the discontinuance of the systems operation.

SECTION 1506. Class 3 – Medium Scale Commercial Solar Energy Conversion System (CSECS) -

A CSECS which has a rated capacity greater than one (1) megawatt to five (5) megawatts under a common or aggregated ownership that includes substations, cables/wire, convertors and other building accessories, whose main purpose is to supply electricity to off-site customers. CSECS may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CSECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also part of the aggregated

project.

A. General Site and Design Standards:

1. Located on a lot or parcel of at least ten (10) acres but no more than forty (40) acres.
2. May be permitted by a Conditional Use Permit to be issued in the AG, ICI, or RCI Zoning Districts.
3. Minimum Yard Requirements:
 - a. No structure shall be placed within the high-water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM), the Federal Emergency Management Agency (FEMA) Flood Data, or any other applicable Federal agency, as Special Flood Hazard Areas, unless the base or footings to such structure are at least one (1) foot above such high water mark.
 - b. Setbacks in General Ag (AG) zoned areas:
 - i. From Public Road: CSECS shall maintain a minimum setback distance from any public road of at least one hundred and eight (108) feet measured from center of road or the highway right of way, whichever is greater.
 - ii. From Participating Property: No setback is required between an adjacent residence of a property participating, in the same aggregated project.
 - iii. From Non-Participating Property: CSECS shall maintain a minimum of one hundred fifty (150) feet from property line so long as an existing dwelling is not located on the non-participating property.
 - iv. From Non-Participating Existing Dwelling: CSECS shall maintain a minimum setback of 330 feet (1/16 mile) from property line.
 - v. From Churches and Public Schools: CSECS shall maintain a minimum setback of one hundred fifty (150) feet from property line.
 - vi. From Cemeteries: CSECS shall maintain a minimum setback of one hundred fifty (150) feet from property line.
 - vii. State Recreation Areas: CSECS shall maintain a minimum setback of one hundred fifty (150) feet from property line.
 - viii. From Approved Platted Subdivisions: CSECS shall maintain a minimum setback of 330 ft (1/16 mile) from property line.
 - c. Setbacks in Commercial Corridors (ICI/RCI)
 - i. From Public Road: CSECS shall maintain a minimum setback distance from any public road of at least fifty-eight (58) feet measured from center of road or twenty-five (25) feet from the highway right of way, whichever is greater.
 - ii. From Participating Property: No setback is required between an adjacent residence of a property participating, in the same aggregated project.
 - iii. From Non-Participating Property: CSECS shall maintain a minimum of fifty (50) feet from property line so long as an existing dwelling is not located on the non-participating property.
 - iv. From Non-Participating Existing Dwelling: CSECS shall maintain a minimum setback of 330 feet (1/16 mile) from property line.
 - v. From Churches and Public Schools: CSECS shall maintain a minimum setback of fifty (50) feet from property line.
 - vi. From Cemeteries: CSECS shall maintain a minimum setback of fifty (50)

- feet from property line.
 - vii. State Recreation Areas: CSECS shall maintain a minimum setback of fifty (50) feet from property line.
 - viii. From Approved Platted Subdivisions: CSECS shall maintain a minimum setback of fifty (50) feet from property line.
- d. Waiver of Setback Requirements: Setback requirements may be waived and lessened by agreement between adjoining landowners provide that:
- i. Said agreement for waiver is made in writing and signed by all involved landowners;
 - ii. Said agreement is presented to the Zoning Administrator upon application for zoning permit and approved as to form and content by the Zoning Administrator; and
 - iii. Said agreement shall be recorded in the York County Register of Deeds Office, indexed to the affected properties.
4. Structures shall meet applicable industry structural codes, shall be neutral in color and shall not be used to display advertising.
5. All CSECS shall use either anti-glare or anti-reflective panels.
6. CSECS shall meet all requirements for placement with the Federal Aviation Administration (FAA).
7. CSECS shall provide visual screening for adjacent non-participating parcels, public park uses and school uses: Fences, walls, berming, vegetation or some combination thereof to provide visual screening shall be used. Fencing, walls or berming may be used to supplement other screening methods, but shall not account for over fifty percent (50%) of the screening. Existing natural features, topography and vegetation may be used to achieve visual screening if provided in accordance to the visual screening requirements provided herein.
- a. If the visual screening is for adjacent non-participating residential uses, it shall be provided as follows:
 - i. If the screen is required, the screen shall cover one hundred percent (100%) of the surface area of a vertical plane extending along the property line adjacent to the SCECS from the ground to a height of at least eight (8) feet above the adjacent ground.
 - b. If the visual screening is for adjacent non-participating public park or school uses, it shall be provided as follows:
 - i. The screen shall cover at least seventy percent (70%) of a vertical plane extending along the entire property line adjacent to the CSECS from the ground to a height of at least eight (8) feet above the adjacent ground.
 - c. If the visual screening is achieved through a fence or wall, it shall be provided along the property line and the front road as follows:
 - i. Acceptable fence and wall materials for visual screening include masonry, stone and wood, but exclude chain link fences (with or without slats.) Alternative fence and materials being used for screening must be approved the Zoning Administrator

- d. If the visual screening is achieved through berming it shall be provided along the property line as follows:
 - i. The side slopes shall not exceed three to one (3 to 1), horizontal to vertical.
 - ii. The mounded ground surface shall be protected to prevent erosion through the use of turf lawn or other alternative groundcovers.
 - e. If the visual screening is achieved through vegetation, it shall be provided along the property line as follows:

At a rate of at least ten (10) trees for every one hundred (100) linear feet. Of the ten (10) trees every one hundred (100) linear feet, at least one (1) shall be a deciduous shade tree and three (3) shall be evergreen or ornamental trees. The trees shall be evenly distributed within each one hundred (100) linear feet section.

 - i. At least two-thirds (2/3), but no more than three quarters (3/4) of the total ornamental/evergreen trees along the property line shall be made up of evergreen trees.
 - ii. Each tree shall have a minimum mature height of fifteen (15 feet).
 - iii. Must maintain the original standard of planting.
 - iv. Seedling are not acceptable and are not to be used for screening purposes. The trees used must also be considered a growing tree.
 - f. Visual screening is not required along the property line adjacent to a Participating property.
8. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. All electrical wires associated with a CSECS other than the wires necessary to connect the disconnect junction box and the grounding wires shall be located underground.
9. The owner of a CSECS shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone, internet or television signals caused by the facility. Any interference shall be alleviated within three (3) months of any party becoming aware of said interference.
10. Construction sites must be re-graded and re-vegetated to minimize environmental impacts and the plan must be submitted with the application.
11. Each CSECS system application shall have a decommissioning plan outlining the means, procedure and costs of removing all related support infrastructure. This plan must be submitted with the application, and state all equipment, support structures, electrical equipment and fences will be removed upon discontinuance of the system's operation within one (1) year.
12. The CSECS shall comply with any and/or all State and Federal regulations, if applicable.
13. The York County Board of Commissioners may require other testing and safeguards, prior to approval, as deemed necessary.
14. Each CSECS must have a 911 address. The address shall be determined by the parcel

number the property lies within as identified by the York County Assessor's office.

15. The CSECS shall be designed and placed in such a manner to minimize adverse visual and noise impacts on adjacent areas. Such things as screenings, fencing, vegetation, trees, shrubs and pollinator plantings can be used, however such design should be included in the application documents.
16. In no case shall a CSECS be located within any required setback or in any front yard area; except that a non-participating landowner can waive a setback requirement by a written agreement submitted at the time of the application. Such agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the York County Planning & Zoning Administrator prior to approval of the permit.
17. Structures for the CSECS project must provide a structural analysis, stamped by a licensed engineer registered in the State of Nebraska.
18. Colors and surface treatment of the CSECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site. No logos or advertisements are allowed on these structures. The project shall be marked with a visible identification number applicable to the project with current contact numbers.
19. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as potential glint or reflections which affect residences within or immediately adjacent to the project area.
20. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any solar energy facility.

SECTION 1507. Class 4 – Large Scale Commercial Solar Energy Conversion System (CSECS) - A
CSECS which has a rated capacity greater than five (5) megawatts under a common or aggregated ownership that includes substations, cables/wire, convertors and other building accessories, whose main purpose is to supply electricity to off-site customers. CSECS may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CSECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

A. General Site and Design Standards:

1. Located on a lot or parcel of at least forty (40) acres.
2. May be permitted by a Conditional Use Permit to be issued in the AG, RR, ICI, RCI, WDI and AHO Zoning Districts.
3. Minimum Yard Requirements:
 - a. No structure shall be placed within the high-water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM), the

Federal Emergency Management Agency (FEMA) Flood Data, or any other applicable Federal agency, as Special Flood Hazard Areas, unless the base or footings to such structure are at least one (1) foot above such high water mark.

- b. Setbacks:
 - i. From Public Road: CSECS shall maintain a minimum setback distance from any public road of at least one hundred and eight (108) feet measured from center of road or the highway right of way, whichever is greater.
 - ii. From Participating Residential Property: CSECS shall maintain a minimum of seventy-five (75) feet from property line.
 - iii. From Non-Participating Property: CSECS shall maintain a minimum of 330 feet (1/16 mile) from property line.
 - iv. From Non-Participating Existing Dwelling: CSECS shall maintain a minimum setback of 2,640 feet (1/2 mile) from property line.
 - v. From Churches and Public Schools: CSECS shall maintain a minimum setback of 660 feet (1/4 mile) from property line.
 - vi. From Cemeteries: CSECS shall maintain a minimum setback of 660 feet (1/8 mile) from property line.
 - vii. State Recreation Areas: CSECS shall maintain a minimum setback of 330 feet (1/16 mile) from property line.
 - viii. From Approved Platted Subdivisions: CSECS shall maintain a minimum setback of 2,640 feet (1/2 mile) from property line.
 - c. Waiver of Setback Requirements: Setback requirements may be waived and lessened by agreement between adjoining landowners provide that:
 - i. Said agreement for waiver is made in writing and signed by all involved landowners;
 - ii. Said agreement is presented to the Zoning Administrator upon application for zoning permit and approved as to form and content by the Zoning Administrator; and
 - iii. Said agreement shall be recorded in the York County Register of Deeds Office, indexed to the affected properties.
4. Structures shall meet applicable industry structural codes, shall be neutral in color and shall not be used to display advertising.
 5. All CSECS shall use either anti-glare or anti-reflective panels.
 6. CSECS shall meet all requirements for placement with the Federal Aviation Administration (FAA).
 7. CSECS shall provide visual screening for adjacent non-participating, public park uses and school uses: Fences, walls, berming, vegetation or some combination thereof to provide visual screening shall be used. Fencing, walls or berming may be used to supplement other screening methods, but shall not account for over fifty percent (50%) of the screening. Existing natural features, topography and vegetation may be used to achieve visual screening if provided in accordance to the visual screening requirements provided herein.
 - a. If the visual screening is for adjacent non-participating residential uses, it shall

be provided as follows:

- i. If the screen is required, the screen shall cover one hundred percent (100%) of the surface area of a vertical plane extending along the property line adjacent to the CSECS from the ground to a height of at least eight (8) feet above the adjacent ground.
- b. If the visual screening is for adjacent non-participating public park or school uses, it shall be provided as follows:
 - i. The screen shall cover at least seventy percent (70%) of a vertical plane extending along the entire property line adjacent to the CSECS from the ground to a height of at least eight (8) feet above the adjacent ground.
- c. If the visual screening is achieved through a fence or wall, it shall be provided along the property line and the front road as follows:
 - i. Acceptable fence and wall materials for visual screening include masonry, stone and wood, but exclude chain link fences (with or without slats.) Alternative fence and materials being used for screening must be approved the Zoning Administrator
- d. If the visual screening is achieved through berming it shall be provided along the property line as follows:
 - i. The side slopes shall not exceed three to one (3 to 1), horizontal to vertical.
 - ii. The mounded ground surface shall be protected to prevent erosion through the use of turf lawn or other alternative groundcovers.
- e. If the visual screening is achieved through vegetation, it shall be provided along the property line as follows:

At a rate of at least ten (10) trees every one hundred (100) linear feet. Of the ten (10) trees every one hundred (100) linear feet, at least one (1) shall be a deciduous shade tree and three (3) shall be evergreen or ornamental trees. The trees shall be evenly distributed within each one hundred (100) linear feet section.

 - i. At least two-thirds (2/3), but no more than three quarters (3/4) of the total ornamental/evergreen trees along the property line shall be made up of evergreen trees.
 - ii. Each tree shall have a minimum mature height of fifteen (15 feet).
 - iii. Must maintain the original standard of planting.
 - iv. Seedling are not acceptable and are not to be used for screening purposes. The trees used must also be considered a growing tree.
- f. Visual screening is not required along the property line adjacent to a Participating property.

8. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. All electrical wires associated with a CSECS other than the wires necessary to connect the disconnect junction box and the grounding wires shall be located underground.
9. The owner of a CSECS shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone, internet or television signals caused by the facility. Any interference shall be alleviated within three (3) months of any party becoming aware of said interference.

10. Construction sites must be re-graded and re-vegetated to minimize environmental impacts and the plan must be submitted with the application.
11. Each CSECS system application shall have a decommissioning plan outlining the means, procedure and costs of removing all related support infrastructure. This plan must be submitted with the application, and state all equipment, support structures, electrical equipment and fences will be removed upon discontinuance of the system's operation within one (1) year.
12. The CSECS shall comply with any and/or all State and Federal regulations, if applicable.
13. The York County Board of Commissioners may require other testing and safeguards, prior to approval, as deemed necessary.
14. Each CSECS must have a 911 address. The address shall be determined by the parcel number the property lies within as identified by the York County Assessor's office.
15. The CSECS shall be designed and placed in such a manner to minimize adverse visual and noise impacts on adjacent areas. Such things as screenings, fencing, vegetation, trees, shrubs and pollinator plantings can be used, however such design should be included in the application documents.
16. In no case shall a CSECS be located within any required setback or in any front yard area; except that a non-participating landowner can waive a setback requirement by a written agreement submitted at the time of the application. Such agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the York County Planning & Zoning Administrator prior to approval of the permit.
17. Structures for the CSECS project must provide a structural analysis, stamped by a licensed engineer registered in the State of Nebraska.
18. Colors and surface treatment of the CSECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site. No logos or advertisements are allowed on these structures. The project shall be marked with a visible identification number applicable to the project with current contact numbers.
19. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as potential glint or reflections which affect residences within or immediately adjacent to the project area.
20. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any solar energy facility.
21. "Confined Animal Feeding Use" shall have the same definition in this Section as defined in Section 303.33 of this resolution. All classifications of CSECS shall maintain setbacks of at least one thousand (1000) feet from the nearest Confined Animal Feeding Unit.

22. "Intensive Animal Feeding Use" shall have the same definition in this Section as defined in Section 303.54 of this resolution. All classifications of CSECS shall maintain setbacks of at least one thousand (1000) feet from the nearest Intensive Animal Feeding Unit.

SECTION 1508. Application Requirements for Class 3 and Class 4: The applicant for a conditional use permit for construction of a CSECS shall file an application with the York County Zoning Administrator. The application shall include the name(s) of the project applicant(s); the name of the project owner(s); the legal description and address for the project. The application shall also include the following documents:

- A. A survey map drawn to scale illustrating the following:
 - 1. Property lines, dimensions, acreage encompassed and contours with appropriate intervals for site evaluation;
 - 2. Location and elevation of all components of the proposed CSECS;
 - 3. Location and dimensions of all existing structures and uses on property within one (1) mile of the CSECS;
 - 4. Location of any overhead utility lines on the property;
 - 5. Location of all known communications towers within two (2) miles of the proposed CSECS;
 - 6. Access roads;
 - 7. Adjacent ownership, land uses, existing residences, schools, churches, hospitals, public libraries, federal, state, county or local parks, recognized historic or heritage sites, identified wildlife preserves or habitat areas to a distance of 5,280 ft (one- mile);
- B. Provide a copy of the Easement Deed or similar recorded documents from the York County Register of Deeds Office, for each Participating Property.
- C. Provide a map illustrating all Transmission Lines connecting to the Substation. Additionally, Applicant shall provide a description of the electrical generating capacity and means of interconnecting with the electrical grid as coordinated and pre-approved with the appurtenant electric utility.
- D. Provide manufacturer's recommended installations, if any.
- E. A fee of \$250 to be paid to the York County Treasurer.
- F. Compliance with FAA regulations, including any documentation required by the FAA, which shall include Form 7460, certifying approval of each proposed location, if applicable.
- G. Provide minutes from meeting (s) with the York Airport Authority Board to discuss and review the proposed CSECS site plan.
- H. Results of Consultation with the National Oceanic and Atmospheric Administration (NOAA), National Weather Service, or any other relevant weather monitoring in the CSCES project areas, when applicable.
- I. Results of consultation regarding potential interference with existing communication facilities within the CSECS project area.

- J. Applicant shall identify potential effects in terms of constraints or benefits the solar energy facility may place on current or future use of the land within the project site and the surrounding area. The extent of any limitations due to public health and safety risks shall be specifically addressed and the effects on the following activities shall also be addressed:
1. Existing or proposed tourist or recreation activities;
 2. Residential activities;
 3. Industrial activities;
 4. Agricultural activities;
 5. Commercial activities.
- K. Application shall meet all requirements of NDEE, NRCS and NRD Districts in the project area. Soil erosion, sediment control and storm water runoff plan shall address what types of erosion control measures will be used during each phase of the project. It shall identify plans for:
1. Grading;
 2. Construction and drainage of access roads;
 3. Design features to control dust;
 4. Design features to maintain downstream water quality;
 5. Re-vegetation to ensure slope stability;
 6. Restoring the site after temporary project activities;
 7. Disposal or storage of excavated materials;
 8. Protecting exposed soil;
 9. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
 10. Maintenance of erosion controls throughout the life of the project;
 11. Must present an acceptable weed or vegetation plan at the time of permit.
- L. Applicant shall provide information regarding flora and fauna of the proposed project area including:
1. Officially listed threatened or endangered species;
 2. Critical habitat and habitat conditions;
 3. An avian study based on the U.S. Fish and Wildlife Service.
- M. A pre-construction noise and glare study shall be conducted; and shall include all property within one (1) mile (5,280 ft) of the CSECS. Projections of any glare on a structure shall include the extent and duration of the glare on the existing structure. The protocol, methodology and modeling shall be included in the study. Studies shall include modeling for all four seasons and include typical and worst-case scenarios. The complete results and full study report shall be submitted to the York County Planning Commission for review at the time of the application.
- N. Standard drawings of the structural components of the CSECS.
- O. Certification by a registered licensed Engineer in the State of Nebraska that shows:
1. There is a substantial need for the proposed use of CSECS, greater than one hundred (100) KW in the State of Nebraska;
 2. All applicable local, state and federal building, structural and electrical codes have been followed;
 3. The site is feasible for a CSECS; and can be successfully operated in the climate conditions found in York County;

4. The design and safety of the proposed CSECS can withstand weather related events.
-
- P. An escrow account shall be set up when the Applicant applies for a Conditional Use Permit for a CSECS. The monetary amount filed by the Applicant with York County shall be in an amount estimated by the York County Board of Commissioners, not to be less than \$25,000, to cover all reasonable costs and expenses associated with the special zoning review and approval process, which can include but are not limited to any reports or studies which the York County Planning Commission and/or York Board of Commissioners anticipates it may have done related to the zoning review process for this application. Such escrow amount shall include established fees. At any point during the zoning review process the York County Planning Commission and/or York County Board of Commissioners shall require that the Applicant place additional monies into the York County escrow in the event funds prove insufficient. If the escrow amount needs replenished and the Applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until Applicant makes the required escrow deposit, or permit may be denied. Any escrow amounts which are more than actual costs shall be returned to the Applicant within ninety (90) days of permitting process completion. An itemized billing of all expenses shall be provided to the Applicant. The York County Planning Commission and/or York County Board of Commissioners may hire qualified professionals and/or attorneys for each and any of the technical fields associated with the Conditional Use Permit, such as, but not limited to, electrical, acoustics, environmental, economics, wildlife, health and land use.
 - Q. Applicant shall be required to fund an escrow account for investigation of complaints for but not limited to glare, stray voltage, noise and signal interference, with the amounts of funds to be set at the discretion of the York County Board of Commissioners. When the escrow account balance is below \$10,000, York County shall notify the Applicant. The Applicant shall replenish within 45 days of notification. If escrow account is not replenished in 45 days of notification, a fine will be assessed by the York County Board of Commissioners every 45 days until account is replenished. The Applicant may request return of the funds in the escrow account after five (5) years from the beginning of operation of the CSECS, and said request shall be reviewed by the York County Board of Commissioners.

SECTION 1509. Construction and Operations

- A. All public roads to be used for the purpose of transporting CSECS substation materials, cement or equipment for construction, operation or maintenance of the CSECS shall be identified and applicable weight and size permits from the impacted road authority(ies) shall be obtained prior to construction. A pre-construction survey must be conducted with the appropriate jurisdictions to determine existing road conditions. Those included are Applicant(s); Land Owner(s); Township Representative(s); Highway Superintendent(s) and/or Zoning Administrator(s). The survey shall include photographs and a written agreement to document the conditions of the public roads and facilities. All expenses of the survey shall be the Applicant's responsibility.
- B. Prior to the commencement of construction, the Applicant shall enter into an agreement with the York County Highway Department regarding use of county roads during construction. The agreement shall include traffic routes, time of year use, staging areas and any other physical sites related to the CSECS. All roads shall be constructed and maintained to allow access, at all times, by any emergency service vehicles. The CSECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation or

maintenance of the CSECS. Any violation of the agreement will incur an assessment against the Applicant for damages as determined by the Highway Superintendent and the Board of Commissioners.

- C. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

SECTION 1510. Safety Measures

- A. Each CSECS shall be equipped with both manual and automatic controls to limit the power so it does not exceed the design limits.
- B. CSECS shall include no sign or advertising of any kind, except for one sign not to exceed two (2) square feet posted near the entrance to the facility, electrical equipment, and entrances. The sign shall contain the following information:
 - 1. Warning – high voltage;
 - 2. Manufacturer’s name;
 - 3. Operator’s name;
 - 4. Emergency phone number;
 - 5. Emergency shutdown procedures;
- C. Each CSECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.
- D. Any CSECS facility shall be equipped with anti-climbing devices if applicable. Tower climbing apparatus shall not be located within fifteen (15) feet of the ground and site shall be enclosed with a locked protective fence at least eight (8) feet high around the site.
- E. The CSECS operator shall maintain a current insurance policy which will cover liability, installation, operation and any possible damage or injury that might result from the failure of any part or parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The CSECS shall be warranted against any system failures reasonably expected in severe weather operation.
- F. An Emergency Operations Plan (EOP) must be placed on file and kept current with York County Zoning Administrator York County Emergency Management and Fire and Rescue Department(s) within the project jurisdiction. The plan shall include an all-hazards planning approach, based on an emergency incident or disaster of any magnitude or geographic size that may cause disruption to the function of CSECS and include contacts for notification.
- G. Upon completion of the CSECS project the Applicant shall meet with local Fire and Rescue jurisdiction to review the Emergency Operations Plan.
- H. To ensure public safety, as well as the educational value of seeing this land use, each CSECS shall be permitted to enclose the CSECS property with a fence that surrounds the entirety of the CSECS, so long as the fence complies with all setback and land requirements aforementioned.

The fence must be at least eight (8) feet tall, providing the fencing material is predominantly open. A chain-link, wildlife, or other similar fence material is required. Barbed-wire, razor-wire, or other deterrent is permitted to affix atop the fence up to two (2) additional feet. Where screening is required, fences shall be inside the screening. Any additional or altered fence designs or fencing material may be approved at the discretion of the Zoning Administrator and the York County Board of Commissioners.

SECTION 1511. Discontinuation and Decommissioning

- A. A bond is required to be held for the price of removal and decommissioning of any property subject to a CSECS permit. Such bond shall be in place from the date of approval of the conditional use permit until the date of complete and final decommissioning of the property subject to a CSECS permit. The purpose of such bond is to guarantee removal and restoration upon discontinuation, decommissioning or abandonment of the facilities. The bond shall be in place at 100% of the project evaluation costs as determined by an independent competent party approved by the York County Board of Commissioners, as further described in Section 1511(C).

Prior to transfer of any CSECS permit, the permit holder shall submit proof that the bond has been reassigned. The transfer of a CSECS permit must be filed with the Register of Deeds and evidence of that filing shall be presented to the York County Zoning Administrator and York County Board of Commissioners.

- B. A CSECS shall be considered a discontinued use after one hundred and eighty (180) days without energy production, unless a plan is developed and submitted to the York County Zoning Administrator outlining the steps and schedule for returning the CSECS to service. All CSECS and accessory facilities shall be removed four (4) feet below ground level within one hundred and eighty (180) days of the discontinuation of use. This period may be extended by the Board of Commissioners following a written request by an agent of the owner of the CSECS.
- C. Each CSECS shall have a decommissioning and restoration plan detailing the projected means and costs of removing CSECS at the end of the serviceable life or upon becoming a discontinued use and completion of property restoration. The costs estimates shall be prepared by an independent competent party approved by the York County Board of Commissioners, such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning and restoration. The decommissioning and restoration plan and projected costs shall be reviewed and updated every 5 (five) years.

SECTION 1512. Noise

- A. No CSECS shall exceed 55 dBA 10-minute leq at the nearest structure occupied by a Participant. In the event of periods of severe weather, as defined by the United States Weather Service, a CSECS may exceed 55 dBA. A nonparticipating landowner may waive a noise limitation by written agreement, which shall be submitted at the time of the application.
1. No CSECS shall exceed 40 dBA during day time and 37 dBA at night (night hours are 10:00 p.m. to 7:00 a.m.) at the nearest residence of a nonparticipating property; or
 - a. Three (3) dBA maximum 10-minute leq allowed above ambient noise level.
 - b. In the event of periods of severe weather, as defined by the United States Weather Service, a CSECS may exceed 55 dBA.

A non-participating landowner can waive a noise requirement by written agreement. A written waiver shall be submitted at the time of the application. Such an agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the York County Planning & Zoning Administrator prior to approval of the permit.

- B. The York County Zoning Administrator and the York County Board of Commissioners shall require post-construction noise level measurements at the expense of the holder of the Conditional Use Permit within one (1) year of completion. The testing shall be completed by a licensed, independent acoustical engineer, and the results shall be forwarded to the York County Board of Commissioners. The results will be a public document subject to Nebraska's public records laws.
- C. All noise complaints regarding the operation of any CSECS shall be referred, in writing, to the York County Zoning Administrator and the York County Board of Commissioners.
- D. The York County Board of Commissioners shall determine whether a violation has occurred. If a violation is found, the Applicant will correct the violation within 30 days. If the violation is not corrected in the specified time, operations of the CSECS will be ordered to cease until the violation is corrected and a fine will be assessed.

SECTION 1513: Indemnification

- A. Any application for a CSECS shall contain an indemnification provision. The provision shall require the Applicant to at all times defend, indemnify, protect, save, hold harmless, and exempt York County, and its officers, councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said CSECS. With respect to the penalties, damages, or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by York County. In addition, it shall be stated that York County shall be exempt from any liability for the decommissioning of the CSECS in the event the Applicant abandons the project.

SECTION 1514. Battery Storage

- A. Battery storage as it relates to CSECS shall be allowed as follows:
 - 1. CLASS 1 – Up to 50 kw of battery storage for single personal use
 - 2. CLASS 2 – Up to 250 kw of battery storage for single site use on commercial property only. Additionally, any applicant will include a Hazard Communication Plan (HAZCOM) to be shared with all local emergency departments
 - 3. CLASS 3 – Not allowable
 - 4. CLASS 4 – Not allowable
- B. Any batteries shall use only HVAC or closed loop cooling.

	Class 1 Small (Up to 100 KW)	Class 2 Commercial (100 KW to 1 MW)		Class 3 Commercial (>1 MW to 5 MW)		Class 4 Commercial (> 5 MW)
Permit Process	Admin Approval	Conditional Use Permit		Conditional Use Permit		Conditional Use Permit
Minimum Lot	>2 Acres	3 Acres – 10 Acres		10 Acres – 40 Acres		>40 Acres
Zoning Areas	All	Commercial Corridors	General Ag	Commercial Corridors	General Ag	All
Front Setback on Public Right of Way	58' Center of Road or 25' ROW	58' Center of Road or 25' ROW	108' from Center of Road	58' Center of Road or 25' ROW	108' from Center of Road	108' from Center of Road
Non-Participating Property	5' side; 10' rear	50' from PL	150' from PL	50' from PL	150' from PL	330 feet (1/16 mile) from PL
Participating Dwelling	No Setback	No Setback	No Setback	No Setback	No Setback	75 feet
Non-Participating Dwelling	10' side; 15' from PL	75' from PL	330 feet (1/16 mile) from PL	330 feet (1/16 mile) from PL	330 feet (1/16 mile) from PL	2,640 feet (1/2 mile) from PL
Churches/Schools	10' side; 15' from PL	50' from PL	150' from PL	50' from PL	150' from PL	660 feet (1/8 mile) from PL
Cemeteries	10' side; 15' from PL	50' from PL	150' from PL	50' from PL	150' from PL	330 feet (1/16 mile) from PL
State Recreation Areas	10' side; 15' from PL	50' from PL	150' from PL	50' from PL	150' from PL	660 feet (1/8 mile) from PL
Platte Subdivisions	10' side; 15' from PL	50' from PL	330 feet (1/16 mile) from PL	50' from PL	330 feet (1/16 mile) from PL	2,640 feet (1/2 mile) from PL
Screenings	No	Yes		Yes		Yes
Batteries	Up to 50 kw of battery storage	Up to 250kW of battery storage for commercial property only		Not Permitted		Not Permitted
	HVAC or Closed Loop cooling only					