

ORDINANCE NO. 683

AN ORDINANCE TO ENACT ARTICLE 8, ACCESSORY USES AND SUPPLEMENT REGULATIONS, RELATED TO SOLAR REGULATIONS, CONSISTING OF SECTIONS 8.11.01 THROUGH SECTION 8.11.05 OF THE MURRAY, NEBRASKA ZONING REGULATIONS 2004; TO REPEAL ALL ORDINANCES IN CONFLICT, EXPRESSLY INCLUDING SECTION 150.03 OF TITLE XV, LAND USE, CHAPTER 150 BUILDING REGULATIONS, OF THE MURRAY, NEBRASKA CODE OF ORDINANCES; TO PROVIDE FOR PUBLICATION IN PAMPHLET FORM; AND TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF MURRAY, NEBRASKA:

Section 1. The 2004 Zoning Regulations of the Village of Murray, Nebraska are hereby amended by enacting the following:

ARTICLE 8

ACCESSORY USES AND SUPPLEMENTAL REGULATIONS

SECTION 8.11.01 SOLAR REGULATIONS

A. DEFINITIONS

1. **CONCENTRATED SOLAR POWER (CSP):** An SCS that generates power by using mirrors or lenses to concentrate a large area of sunlight, or solar thermal energy unto a small area. These include but are not limited to the following technologies: parabolic trough, solar power tower, enclosed trough, Fresnel reflectors, and Dish-Stirling.
2. **ELECTRIC UTILITY:** The public entity providing retail electrical service to a given area.
3. **NET EXCESS GENERATION:** On an individual solar conversion system (ISCS), net excess generation means the net amount of energy, if any, by which the output of a qualified facility exceeds a customer-generator's total electricity requirements during a billing period.
4. **SOLAR ACCESS:** The ability to receive sunlight across any real property for any solar energy device.
5. **SOLAR ACCESS EASEMENT:** A right, expressed as an easement, covenant, condition, restriction or other property interest in any deed, will, or other instrument executed by or on behalf of any landowner or in any order of taking, appropriate to protect the solar skyspace of a solar collector at a particularly described location to forbid or limit any or all of the following where detrimental to access to solar energy: structures on or above ground; vegetation on or above ground; or other activities

6. SOLAR CONVERSION SYSTEM (SCS): An assembly, structure, or design, including passive elements, used for gathering, concentrating, or absorbing direct or indirect solar energy, specifically designed for holding a substantial amount of useful energy and transferring that energy to a gas, solid or liquid or using that energy directly; this may include, but is not limited to, a mechanism or process used for gathering solar energy, or a component used to transfer thermal energy to a gas, solid or liquid or to convert into electricity.
7. SOLAR CONVERSION SYSTEM, COMMERCIAL (CSCS): A CSCS with the following characteristics: a series of solar modules and equipment connected together, with a project area greater than one (1) acre, in order to commercially supply the converted energy to a community and/or power grid.
8. SOLAR CONVERSION SYSTEM, GROUND-MOUNTED: Any SCS which is directly supported and located on the ground.
9. SOLAR CONVERSION SYSTEM, INDIVIDUAL (ISCS): A solar conversion system for the private use of a single individual, residential, commercial, public or industrial use equal to or less than one (1) acre in total project area.
10. SOLAR CONVERSION SYSTEM, NEIGHBORHOOD (NSCS): A series of solar panels and equipment connected together in order to supply converted energy to a specific neighborhood and its uses.
11. SOLAR CONVERSION SYSTEM, STRUCTURE-MOUNTED: Any SCS which is directly connected to and supported by a building.
12. SOLAR ENERGY: Radiant energy received from the sun at wavelengths suitable for heat transfer, photosynthetic use, or photovoltaic use.
13. SOLAR ORIENTED SUBDIVISION: A subdivision in which a minimum of 65 percent of the lots are solar oriented lots.
14. SOUTH OR SOUTH-FACING: True south, or 20 degrees east of magnetic south.

8.11.02 GENERAL PROVISIONS

The following provisions shall apply to all of the different solar conversion systems in this Section.

- A. Pre-existing SCS: Notwithstanding noncompliance with the requirements of this section, a SCS erected prior to the adoption of these regulations, pursuant to a valid building permit issued by the Village of Murray, may continue to be utilized so long as it is maintained in operational condition.
- B. Concentrated Solar Power (CSP) systems are prohibited within the Village of Murray's jurisdiction.

- C. All SCS shall be constructed in conformance with all applicable building and fire codes. For those systems that include electrical, plumbing and/or heating constructions, any applicable permits shall also be obtained.
- D. A SCS may be installed in the floodplain subject to the zoning district regulations, as may be amended from time to time, given that all components are installed a minimum of two feet (2') above base flood elevation and subject to written authorization of the Floodplain Administrator.
- E. No SCS shall be constructed in an identified Floodway.
- F. Maintenance: All system and components shall be kept in operational condition, including appearance of all components; plus, the ground beneath any ground-mounted SCS shall be kept in a presentable manner. If the system and/or components are damaged due to fault or no fault of the operator/owner/developer, then said party shall have a reasonable time to restore any damaged systems or components.
- G. Repowering: If any SCS is no longer operating for purposes of repowering, replacement, or maintenance, decommissioning provisions will not apply for up to 12 months. However, an SCS that is not operating or is operating at a substantially reduced capacity for more than 12 months will be considered abandoned and decommissioning provisions will apply.
- H. Repowering does not require a new permit or permit amendment if the footprint of the SCS is the same or reduced. Any increase in the footprint of the facility will require a permit amendment.
- I. Decommissioning: All systems when they are no longer generating power and will no longer be used shall follow a decommissioning plan that has been agreed to upfront by Village of Murray, and the owner/developer.
- J. No CSCS shall be permitted within a half mile (1/2) of the Village Corporate Limits.

8.11.03 INDIVIDUAL SOLAR CONVERSION SYSTEMS (ISCS)

A. General Requirements for SCS:

Any person choosing to install solar panels for the purpose of generating solar energy for a residence or business must obtain a building permit from the village. Once the village building permit is obtained, it shall be submitted to the county zoning department for review and approval for compliance with county and state laws. No separate zoning permit with the village is required.

- B. Requirements for the placement of ISCS solar panels within the village corporate limits are:
 - 1. Construction Plans produced by a reputable solar installation contractor to be submitted with building permit application.
 - 2. Solar Panels may be attached only to rooftops of residential and commercial structures, including detached garages within the corporate village limits.

3. Solar Panels may not be placed at ground level on poles in front yards, back yards, or lots within the corporate village limits.

8.11.04 NEIGHBORHOOD SOLAR CONVERSION SYSTEMS (NSCS)

- A. General Requirements for NSCS: NSCS shall meet the following requirements as provided herein:

1. NSCS are not permitted in the village corporate limits.
2. The NSCS shall be designed and constructed for no more than the anticipated maximum solar usage in the designated neighborhood or development;
3. A net metering agreement between the developer, Homeowners Association, and any other entity and the electric utility shall exist in case of excess electricity. No net excess power generated shall be sold or given to a user outside the agreed upon neighborhood or development, except via a net metering agreement; shall stay in place as long as the ground-mounted NSCS is in place and operational;
4. The developer shall provide Village of Murray with all solar easements and those easements shall be filed at the County Register of Deeds prior to construction. The Village of Murray shall not be responsible for enforcing said easements;
5. The NSCS shall be set on its own lot within the neighborhood/development;
6. The developer shall provide evidence that the project meets commonly accepted management practices for avian, wildlife, and environmental protections in place at the time of application;
7. The NSCS shall comply with any specific requirements of the appropriate fire district;
8. All NSCS operations shall have, located at key access points, signage stating specific language as outlined by the electric utility. Signage shall conform to the Village of Murray Sign Regulations;
9. All connections to the uses within the neighborhood shall be made underground; and
10. A ground-mounted NSCS shall be protected with fencing and/or bollards.

- B. Structural Requirements:

The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.

- C. Solar Oriented Subdivision Plot Plan:

1. Whenever an NSCS is part of a proposed subdivision, the developer shall outline the specific lot or outlot where the NSCS will be placed. Specific developments/neighborhoods initially designed with an NSCS shall identify all solar easements on the preliminary and final plats and shall be recorded the same

as other utility easements. In addition, the subdivision plats shall indicate, in addition to all other requirements in the subdivision regulations, the location of all proposed underground conduits serving the other lots in said subdivision.

2. The application for a special permit is required. The application shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed NSCS.
3. The developer shall install all underground wiring as prescribed by the governing electric codes.
4. All transmission lines and wiring shall be protected by a utility easement or located within prescribed rights-of-way.
5. The developer shall provide the Village of Murray with as-built drawings of the wiring locations within the subdivision.

D. Decommissioning:

A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of the NSCS must occur in the event it is not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site. Village of Murray may require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure proper decommissioning. The NSCS owner shall remove all SCS equipment and appurtenances within 180 days of abandonment.

8.11.05 COMMERCIAL SOLAR CONVERSION SYSTEMS (CSCS)

A. Applicability:

1. The purpose of this subsection is to provide standards for a CSCS generating energy and distributing that energy to the electrical grid on sites greater than one (1) acre. This includes CSCS projects that are in the Village of Murray's ETJ and projects that overlap the village ETJ and the county jurisdictions and cumulatively cover more than one (1) acre.
2. Approval of a Special Use Permit is required for a new CSCS.
3. A CSCS will impact and utilize the land resources and municipal services of the Village of Murray. The Village of Murray may also incur certain costs for administration and enforcement related to the CSCS, therefore a fully executed development agreement between the developer and the Village is required prior to approval of a Special Use Permit.
4. No portion of a CSCS or ancillary equipment are permitted within one-half (½) mile of the Village Corporate Limits. A waiver of this setback may be requested with the Special Use Permit under the following conditions:

- i. A parcel is included in the project which is divided by the ½ mile limitation such that only a part of the parcel encroaches beyond that ½ mile limitation.
- 5. The provisions of this subsection are based on a ground-mounted SCS constructed with techniques that support the flow of rainwater between each module, the growth of vegetation beneath the arrays, limit the impacts of stormwater runoff, and allow for minimal disturbance to the existing ground and grading of the site.
- 6. If the Village of Murray finds the CSCS meets the provisions in 4 above and the project is to be low intensity with minimal trip generation, low amounts of impervious cover, and low emission; the use is compatible in non-urbanized, low-density residential areas.

B. Site Development Standards:

- 1. Zoning Districts: CSCS are allowed subject to a Special Use Permit, in the AGR Agricultural Residential Zoning District.
- 2. Lot coverage: No more than five percent (5%) of the gross site area shall be occupied by enclosed buildings and structures.
- 3. Setbacks:

CRITERIA	SETBACK (FEET)
Abutting, occupied non-participating residence within 500 feet of the property line	100'
Side Yard Setback (from property line)	50'
Rear Yard Setback (from property line)	50'
County Road Rights-of-Way Setback (from centerline of county road)	70'
State Highway Rights-of-Way Setback (from centerline of state highway)	75'
<i>*If a residential structure is within 500 feet of the property line of the CSCS project even if the residential property is separated from the CSCS facility by a right-of-way or an easement, the setback will be 100 feet from the CSCS property line.</i>	

- i. Setbacks shall apply to CSCS panels and equipment.
- ii. Fencing and visual screening may be located in the setback.
- iii. There shall be no side or rear yard setback for any lot line where the CSCS is located on adjacent or contiguous parcels.
- iv. Setbacks may be reduced, altered, or waived, as part of the Special Use Permit, with approval from abutting landowners and written notice requesting the waiver to the Village Zoning Administrator.

4. Sound Minimization: Sound producing equipment including but not limited to, inverters and transformers, shall be located in such a way to minimize disturbance to nearby residences. A decibel limit or sound reducing devices may apply dependent on the location of the sound producing equipment.
5. Height: The maximum height of the ground-mounted CSCS shall not exceed twenty-five (25) feet, excluding substations.
6. Screening: Visual screening shall be required if an occupied non-participating residence is within five hundred (500) feet of the CSCS property line.
 - i. The CSCS owner shall provide visual screening along the portion of a lot line adjacent to the non-participating residential use, for a distance equal to the parallel wall of the residence, plus seventy-five (75) feet in both directions, or until the lot line meets a public right-of-way, whichever comes first.
 - ii. Screening shall consist of two rows of staggered evergreen trees with a minimum height of thirty-five (35) feet at full growth. The minimum planting height of trees is six (6) feet. The screening plan shall show species planted to touch at full adult spread of the tree.
 - iii. Screening shall be placed within fifty (50) feet of the CSCS property line.
 - iv. Screening is not required where the CSCS abuts a participating residential use or where the homeowner requests a waiver of screening by written notice to the Village Zoning Administrator.
7. Screening Maintenance: The CSCS owner shall maintain screening to establish healthy vegetative material and remedy damaged or dead plantings as soon as seasonally and commercial reasonable. In the event of any such defect, the Zoning Administrator shall confer with the CSCS owner to determine the necessity and substance of the remedy.
8. Stormwater Management: CSCS shall comply with all applicable state and local stormwater construction regulations.
9. All CSCS operations shall have, located at primary access points, signage stating specific language as outlined by the electric utility or CSCS owner. Signage shall conform to the Village of Murray Sign Regulations.
10. On-site power lines shall be buried where reasonably feasible, except where connecting to existing overhead utility lines. This requirement shall not apply to lines transmitting power from a parcel on which the CSCS is located to the point of interconnection to existing overhead utility lines, including lines running between parcels on which the CSCS is located for collection of electricity for transmission to the point of interconnection to existing overhead utility lines. This requirement shall not apply to fiber optic connections, unless above ground power lines are needed in order to prevent complications resulting from possible flooding or other topographic restrictions.

11. Fencing: Due to the unique security requirements of this land use, to ensure public safety, and to facilitate the educational value of seeing this land use, fencing up to eight feet in height is permitted, provided the fencing material is predominantly open. For security and safety purposes, chain-link fence, wildlife fence or similar is required.
12. All state and federal codes and provisions not specified in this subsection are required including but not limited to tree preservation, traffic impact analysis, and historic preservation.
- C. Submittal Requirements: These requirements shall apply to a Special Use Permit application for a CSCS. All applications shall contain, at a minimum, the following:
 1. A site plan, drawn to scale, of the project area, indicating the parcels to be included in the project, total site acreage, landscape and buffer areas, tree preservation, type of fencing, location of all structures associated with the project and within five hundred (500) feet of the boundary of the project, the proposed location of the solar panels, the distances of the solar panels to structures on the property, as well as distances to the overall project boundary lines;
 2. The site plan shall include any roads, electric lines and/or overhead utility lines;
 3. A general description of the electrical generating capacity and means of interconnecting with the electrical grid as coordinated;
 4. Manufacturer's recommended installations, if any;
 5. Documentation of land ownership and/or legal authority to construct on the property; The applicant may submit a letter of authorization from the legal owners of the land consenting to participation in and construction of the CSCS on their land;
 6. Evidence that the project meets commonly accepted management practices for avian, wildlife, and environmental protections in place at the time of application;
 7. Noxious weed control plan;
 8. A landscape plan that shows screening including the location, species, and proposed maintenance of the screen;
 9. Drainage and erosion control plan including identification of any wetlands and impacts on existing wetlands;
 - i. Description and map of surface water bodies in the area affected by the proposed use including existing water quality, and uses of those water bodies.
 - ii. Description of impacts of the proposed use on surface water quality or quantity.
 - iii. Description of mitigation techniques that will be used to prevent significant degradation of the quality and quantity of surface water resources.

10. Ground Water Report including:
 - i. Description and map of ground water affected by the proposed use including affected water wells, aquifers, designated uses of ground water and ground water quality.
 - ii. Description of impacts of the proposed use on ground water quantity or quality.
 - iii. Description of mitigation techniques that will be used to prevent significant degradation of the quality and quantity of ground water resources.
11. Any specific requirements of the appropriate fire district.
12. A cost estimate for the decommissioning of the CSCS and any estimated resale or salvage value shall be provided at the cost of the applicant. The applicant shall provide Village of Murray with a revised and updated decommissioning cost estimate every five years from the date of approval.
13. A decommissioning plan to ensure that facilities are properly removed after their useful life. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site. Upon the five-year interval when the decommissioning cost estimate set forth in this section shows a positive net decommissioning cost, Village of Murray may require the posting of surety, in the form of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning. The net surety amount shall account for the estimated resale and salvage value of materials.
14. An Escrow Account (amount to be determined) may be required by the Village Trustees to cover the reasonable costs of a Professional Consultant to assist with pre-application meetings, application review, community outreach, and public hearings related to the application.
15. A letter clearly explaining the justification for any requested waivers.

D. Compliance with Other Regulations:

1. Special Use Permit applications for CSCS's shall be accompanied by a single line drawing of electrical components. The final design of electrical components shall conform to the State's adopted electrical code and shall be approved by the associated electric utility meeting their distribution generation requirements and guidelines.
2. This subsection does not waive any requirements of any State or Federal codes, electrical codes, or other technical codes as applicable.

E. Decommissioning:

A CSCS shall be considered abandoned after 12 consecutive months without energy production; provided, however, that a CSCS shall not be considered abandoned if the energy is not being produced as a result of maintenance, repairs, or replacement of the CSCS system, or damage caused to the CSCS system by an event outside of the control of

the owner. A Natural Disaster Site Reconstruction Plan shall be submitted to the Village of Murray Zoning Administrator within 90 days of a natural disaster. The CSCS owner and/or landowner shall remove all SCS equipment and appurtenances within 180 days of abandonment.

Section 2. All other ordinances approved prior to the passage, approval, and publication or posting of this ordinance which conflict with these provisions, expressly including Section 150.03 of Title XV, Land Use, Chapter 150 Building Regulations, of the Murray, Nebraska Code of Ordinances, are repealed.

Section 3. This ordinance is adopted and published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

Passed and approved this 9TH day of JANUARY 2024.



Jeff Anderson
Chair of the Board of Trustees

ATTEST:



Shelli Hayes, Village Clerk

Publication Date: JANUARY 12, 2024.

(SEAL)

**ORDINANCE RECORD
ORDINANCE # 683**

1ST READING

Chairman Anderson introduced and read by title Ordinance # 683.
TRUSTEE ANDERSON moved, seconded by TRUSTEE BLESSING to acknowledge first reading and advance Ordinance #683 to a second reading. The following BOARD OF TRUSTEES voted: AYES: BLESSING, STRONG, SCHROEDER, ANDERSON, NAYS: FLAK; MOTION CARRIED.

DATED THIS 12th DAY OF December, 2023.


CHAIRMAN, VILLAGE OF MURRAY

ATTEST:

VILLAGE CLERK

2ND READING

Chairman Anderson introduced and read by title Ordinance # 683.
TRUSTEE ANDERSON moved, seconded by TRUSTEE BLESSING to acknowledge the second reading of Ordinance # 683, and to suspend the third and final reading by title, so that Ordinance # 683 may be adopted (3/4 vote required). The following BOARD OF TRUSTEES voted: AYES: BLESSING, FLAK, SCHROEDER, ANDERSON, (VACANCY); MOTION CARRIED.

Chairman Anderson raised the question "Shall Ordinance # 683 be adopted as read by title?"
TRUSTEE ANDERSON moved, seconded by TRUSTEE BLESSING that said Ordinance #683 be adopted, published, or posted as required by law. The following BOARD OF TRUSTEES voted: AYES: BLESSING, FLAK, SCHROEDER, ANDERSON, (VACANCY); MOTION CARRIED.

Upon passage and adoption having been concurred in by majority vote of the Board of Trustees, the Chairperson declared the Ordinance adopted. A true and correct copy of the Ordinance is attached.

DATED THIS 9TH DAY OF JANUARY, 2024.


CHAIRMAN, VILLAGE OF MURRAY

ATTEST:

VILLAGE CLERK

(SEAL)

CERTIFICATION OF PASSAGE

ORDINANCE #683

STATE OF NEBRASKA
COUNTY OF CASS
VILLAGE OF MURRAY

I, Shelli S. Hayes, Village Clerk of the Village Of Murray, Cass County Nebraska, hereby certify that a true and exact copy Ordinance #683 as attached herewith, was passed and approved on the 9TH day of JANUARY, 20 24, and has been published in a legal newspaper, the Omaha World Herald as per the attached **affidavit of publication**, OR posting as required by law. Posting sites: Cornerstone Bank, Murray Post Office, Murray Municipal Building.

Posted this 12TH day of JANUARY, 20 24.



Shelli S. Hayes, Village Clerk

(SEAL)

VILLAGE OF MURRAY
NOTICE OF PUBLICATION OF
ORDINANCE IN PAMPHLET FORM

On the 9th day of January, 2024, the Village of Murray Board of Trustees adopted an ordinance entitled:

ORDINANCE NO. 683

AN ORDINANCE TO ENACT ARTICLE 8, ACCESSORY USES AND SUPPLEMENT REGULATIONS, RELATED TO SOLAR REGULATIONS, CONSISTING OF SECTIONS 8.11.01 THROUGH SECTION 8.11.05 OF THE MURRAY, NEBRASKA, ZONING REGULATIONS 2004; TO REPEAL ALL ORDINANCES IN CONFLICT, EXPRESSLY INCLUDING SECTION 150.03 OF TITLE XV, LAND USE, CHAPTER 150 BUILDING REGULATIONS, OF THE MURRAY, NEBRASKA, CODE OF ORDINANCES; TO PROVIDE FOR PUBLICATION IN PAMPHLET FORM; AND TO PROVIDE AN EFFECTIVE DATE

Said Ordinance was published in pamphlet form and copies thereof are available at the office of the Village Clerk, 106 W Main Street, Murray, Nebraska.

Shelli S. Hayes, Village Clerk