

RESOLUTION #2026- 11

**A RESOLUTION IMPOSING A TWELVE (12) MONTH MORATORIUM ON THE
ACCEPTANCE OF APPLICATIONS FOR BATTERY ENERGY STORAGE SYSTEMS,
CRYPTOCURRENCY-MINING OPERATIONS, DATA CENTERS, ARTIFICIAL
INTELLIGENCE FACILITIES, AND CARBON DIOXIDE CAPTURE, TRANSPORT
AND SEQUESTRATION FACILITIES**

WHEREAS, Thomas County, Nebraska has a comprehensive development plan; and

WHEREAS, Thomas County, Nebraska has zoning regulations in place which are intended to direct the location of specific uses and provide the proper separation of conflicting uses and preserve public health, safety, and welfare; and

WHEREAS, the Thomas County Board of Commissioners finds it desirable to consolidate, supersede and replace any prior moratoria with a single, unified moratorium, to correct clerical inconsistencies, to establish a single common expiration date, and to extend the scope of the moratorium to additional utility-scale and specialized technology uses that have emerged and that may be the subject of applications in Thomas County, Nebraska; and

WHEREAS, the County Board of Commissioners wishes to obtain updated information about the concerns of the health, safety, and welfare of current and future residents with the impending development of battery energy storage systems, cryptocurrency-mining operations, data centers, artificial-intelligence facilities, and carbon dioxide capture, transport, and sequestration facilities.

WHEREAS, each of the foregoing uses is part of an industry that has changed and evolved since the adoption of current zoning regulations, and there is a strong likelihood of such applications in Thomas County, Nebraska; the County Board wishes to study the existing zoning regulations related to these uses, and desires to review regulations which are appropriate for Thomas County, Nebraska and its residents related to setbacks, infrastructure, noise, decommissioning procedures and funding, health concerns, property value concerns, groundwater and environmental protection, road and bridges impacts, emergency response and wildfire risks, and other items that may pertain to such uses; and

WHEREAS, the Thomas County, Nebraska Planning Commission needs to review the County Comprehensive Plan and Zoning Regulations to then make specific recommendations for changes to the Comprehensive Plan and County Zoning Regulations regarding these uses before accepting, granting, or recommending a conditional use permit or other approval for the construction or installation of any such use; and

WHEREAS, the County Board finds the most appropriate way to work on said regulations is without the possibility of new applications coming forward during a time frame which allows consideration of appropriate regulation for these uses.

THEREFORE, BE IT RESOLVED, by the County Board of Commissioners, Thomas County, Nebraska, that a twelve (12) month moratorium on the acceptance of any application for the uses listed below is hereby invoked and approved. Said moratorium shall apply to the acceptance, processing, granting, or recommending of any application, conditional use permit, zoning permit, special exception, building permit, or other land use approval for the construction, installation, establishment, expansion or operation of any of the following uses within the unincorporated territory of Thomas County, Nebraska:

1. Battery energy storage systems (BESS), including commercial and utility-scale battery storage systems;
2. Cryptocurrency-mining operations, including commercial and utility-scale cryptocurrency-mining operations (a facility of one (1) megawatt or greater under Nebraska law);
3. Data centers, including commercial and utility-scale data centers;
4. Artificial intelligence (AI) facilities, including commercial and utility scale AI facilities; and
5. Carbon dioxide capture, transport, and sequestration facilities, including CO2 pipelines and CO2 injection or sequestration wells, to the extent subject to county zoning jurisdiction under applicable Nebraska law.

This moratorium shall not apply to accessory solar energy systems, accessory battery energy storage systems, accessory wind energy systems, home-based cryptocurrency mining, agricultural water infrastructure, or other accessory uses that serve on-site agricultural or residential demand and that do not meet a utility-scale or commercial threshold, except to the extent such a use would otherwise require conditional use permit.

BE IT FURTHER RESOLVED, that this moratorium will be extended as necessary in order to allow the Planning and Zoning Commission to conduct public meetings, including but not limited to public hearings, in direct regard to current and potential changes to regulations pertaining to the uses listed above; and to further allow any potential changes to be passed on to the Thomas County, Nebraska Board of County Commissioners for review, approval, or disapproval with the same previously mentioned considerations as allowed for the Planning and Zoning Commission.

BE IT FURTHER RESOLVED, that the Board of Commissioners of Thomas County, Nebraska, hereby directs the Thomas County, Nebraska Planning and Zoning Commission to review the Thomas County, Nebraska Comprehensive Plan and Thomas County, Nebraska Zoning Regulations, to conduct any hearings, if necessary, and to make specific recommendations for changes to the Comprehensive Plan and County Zoning Regulations dealing with the uses listed above before accepting, granting, or recommending a conditional use permit or other approval for the construction or installation of any such use, and that such recommendation shall be made within twelve (!2) months of the signing of this Resolution.

BE IT FURTHER RESOLVED, that the said twelve (12) month moratorium shall become effective as of the date of the approval of this Resolution and shall expire twelve (12)

months from the date of adoption, unless extended; and that the authority to extend, renew, or further continue this moratorium beyond its initial twelve (12) month term is reserved exclusively to the Thomas County, Nebraska Board of County Commissioners, which may extend the moratorium for such additional period or periods as it deems necessary by resolution duly adopted, and no such extension shall be required to be initiated, requested, or recommended by any other body.

BE IT FURTHER RESOLVED, that upon the effective date of this Resolution, all previous resolutions are hereby superseded and replaced by this Resolution, which shall govern the moratorium on all uses described herein; provided, however, that nothing in this Resolution shall be construed to revive any application that was barred under the prior resolutions, nor to create any gap in the moratorium previously in effect.

BE IT FURTHER RESOLVED, that if any section, clause, or provision of this Resolution is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, clauses, and provisions shall remain in full force and effect.

PASSED, APPROVED, AND ADOPTED by the County Board of Commissioners of Thomas County, Nebraska, this ____ day of _____, 2026, immediately prior to the adoption of the updated Thomas County, Nebraska Zoning Regulations.

Pamela Moody, Chairperson
Thomas County, Nebraska Board of Commissioners

Lewis Herbaugh, Commissioner
Thomas County, Nebraska Board of Commissioners

Charles Daly, Commissioner
Thomas County, Nebraska Board of Commissioners

ATTEST:

COUNTY CLERK