**Article 20 Commercial Battery Energy Storage Systems**

**20.01 Purpose**

The purpose of this Section is to plan for and regulate the use, improvement, and maintenance of real property and the location, condition, and maintenance of structures and other improvements. These regulations allow commercial battery energy storage systems in certain areas, and, therefore, do not have the effect of unreasonably restricting the use of such facilities other than for preservation and protection of public health and safety. These regulations are not intended to and do not have the effect of significantly increasing the cost of system systems, decreasing the efficiency of such systems, or impeding alternative systems of comparable cost and efficiency.

**20.02 Definitions**

Commercial battery energy storage systems mean one or more devices capable of collecting, storing, and distribution energy in order to distribute electricity at a future time.

**20.03** **Exemptions**

Battery energy storage systems which collect, store, and distribute energy only for use at a residence or business are exempt from this regulation.

**20.04 Permitted Districts**

Commercial battery energy storage systems are allowed only in Agriculture Overlay and Industrial Zoning Districts. If a rezone application is made relating to a Commercial Battery Energy Storage System, the applicant must submit with the petition the following information:

A. Detailed design of the project;

B. Access and Traffic Circulation Plan;

C. Decommissioning Plan;

D. Fire Prevention & Control Plan;

E. Hazardous Materials Handling Plan;

F. Drainage Plan which complies with County ordinances;

G. Lighting Plan;

H. Landscape Plan; and

I. Signage Plan

**20.05 Setbacks**

All commercial battery energy storage systems must be at least three (300) hundred feet from any property line, three hundred (300) feet from the center of any road, street, highway, alley, or public way, at least one thousand (1000) feet from the property line if adjoined by property that is zoned residential. When commercial battery energy storage systems for a single project encompass multiple parcels, there is no required setback from a property line for internal property lines in the project. Security fencing, access roads, and distribution power and communication lines may be located within the set-backs but may not be located in a road right-of-way.

**20.06 Fencing**

The entire perimeter of all commercial battery energy storage systemsshall be surrounded by a security fence of not less than the height of the commercial battery energy storage system(s) to prevent unauthorized access. Fences shall be black opaque vinyl coated chain link. All gates will be locked. The applicant will place a sign, not to exceed eight (8) feet in area, which contains the name and address of the operator and an emergency telephone contact number for the operator.

**20.07 Screening**

All commercial battery energy storage systems shall be surrounded by a vegetative screening along the outside of the perimeter of the fence at a suitable height and density to minimize the view of the systems. Screening shall, at a minimum, be the height of the required fencing and shall, at a minimum, include one evergreen for every 60 lineal feet. The landscape screen shall be part of a required buffer yard that is at least 50 feet in width from the required fencing.

**20.08** **Exterior Lighting**

All exterior safety lighting will be developed in a manner which precludes light trespass onto adjoining parcels and which is limited to the amount of light needed for maintenance, safety, and security.

**20.09 Fire Prevention/Suppression Plan and Requirements**

At the time of any application for a rezone or development plan review, the applicant shall submit a fire prevention and suppression plan which consists of the following:

1. Description of potential fire and emergency scenarios that may require a response from fire, emergency medical services, police, and other emergency responders.
2. Emergency procedures to be followed in the case of fire, explosion, or other potentially dangerous conditions. Procedures shall include notifying and providing access to the Crawfordsville Fire Department or the closest volunteer fire department.
3. Other procedures as determined necessary by the County to provide for the safety of occupants, neighboring properties, and emergency responders.
4. Details of the applicant’s plan to comply with the National Fire Prevention Association (NFPA) Standard 855, including, but not limited to, hazard mitigation analysis, fire suppression design and equipment, fire and explosion testing, emergency planning and training, NFPA Standard 1 (Fire Code), NFPA 70 (Electric Code), and all applicable Indiana and local building, fire, safety, and construction rules, orders, ordinance, and regulations.
5. Description of public or private water sources and fire hydrants on the site which can be accessed for fire suppression.
6. Description of site access for fire and other first responder.
7. Description of the hazardous material signage plan.

**20.10 Decommissioning**

Any Commercial Battery Energy Storage System (BESS) that is not operated for a continuous period of six (6) months is considered to be abandoned. The owner of an abandoned BESS will within twelve (12) months of receipt of notice from the Montgomery County Zoning Administrator remove the system or the part of the system which is abandoned. After removal, the owner will restore the site to its condition as it existed prior to the installation of the system. If the owner fails to remove the system and restore the site as required by this Article, the owner will be in violation of this Article, and the Zoning Administrator may pursue all remedies for the violation. The owner will also provide for a decommissioning plan, and this plan must include written assurance that the system will be properly decommissioned upon the expiration of the system’s serviceable life or upon abandonment. The plan must also include cost estimates of decommissioning and removing the system. Such cost estimates must be made by a professional engineer with experience in decommissioning or removal of such systems. The cost estimates must be updated by a professional engineer every five (5) years and must be submitted to the Zoning Administrator. After submittal of the cost estimates to the Zoning Administrator, the Administrator may accept the cost estimate provided or have a professional engineer engaged by the Administrator provide a cost estimate. In the event that the cost estimates of the owner’s engineer and of the Administrator’s engineer are not the same, the Plan Commission will determine the cost estimate which applies to the owner. The owner will provide to Montgomery County financial security in the form of an irrevocable letter of credit, payable upon demand by Montgomery County, in a form acceptable to the Plan Commission, for the full cost of the estimated decommissioning, removal and restoration in an amount determined by the Plan Commission and approved by the Montgomery County Board of Commissioners. If the cost estimates change during the 5-year reviews, the owner must provide revised irrevocable letters of credit which reflect the adjusted cost estimates. No deductions for salvage value or other credits are allowed from the estimated cost of decommissioning, removal, and restoration.

**20.11 Development Plan Review**

A development plan review is required. An applicant for a development plan review must submit a site plan prepared by a licensed engineer, an access and traffic circulation plan, lighting plan, signage plan, landscape plan, fire prevention plan, drainage plan, decommissioning plan, and other plans required by the Zoning Administrator. Within 60 days of receiving a complete application, the Plan Commission will conduct a public hearing and either approve or disapprove the application.

**20.12 Permit**

If the Plan Commission approves the development plan, the applicant may apply for an improvement location permit. No work, excavation or construction may occur prior to the applicant receiving an improvement location permit. Within 15 days of receipt of an application for a permit, the Zoning Administrator will determine whether the application is complete. The Zoning Administrator will notify the applicant in writing of his determination. If the application is complete, the application will be reviewed by the Zoning Administrator. The Administrator with either grant the permit or deny the permit within thirty (30) days of receiving a complete application. If the application is denied, the Administrator will provide written notice of the reasons for denial. If the application is not complete, the applicant must provide to the Zoning Administrative the supplemental information within sixty (60) days. If the applicant fails to provide the supplemental material for the application in a timely manner, the application will be dismissed.

**20.13 Permit Fee**

At the time of submission, the applicant will submit to the Zoning Administrator a nonrefundable fee in the amount of $500.00, plus the following additional fee for systems that are more than \_\_\_\_ hundred (\_\_\_\_\_) acres:

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| Acres | Additional Fee |
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**20.14 Noise**

No system will produce sound levels that are more than 32 decibels as measured on the dB(A) scale at the property lines of the system site. At the time of submission of a petition to rezone, development plan review and application for permit, the owner will submit a noise study by a licensed acoustician selected by the Zoning Administrator. This study will be paid for by the applicant or owner. This study will include a description and map of the project’s noise-producing features, including the range of noise level expected and the basis of the expectation, a survey and report on the potentially affected residences, schools, public buildings, and other noise sensitive land uses located within two (2) miles of the proposed site. The study will include decibels for both A and C weighted scales. The study will also include a description and map of the cumulative noise impacts and any problem areas identified and a description of the project’s proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive land uses.

**20.15 Height Limitations**

Battery Energy Storage Systems may not exceed twenty (20) feet in height as measured from the natural grade to the top of the system apparatus.

**20.16 Legal Drains**: No battery energy storage system may encroach upon the seventy-five (75) foot easement of any legal drain or ditch. If the construction of the system requires the relocation of any legal drain or ditch, such relocation must be approved by the Montgomery County Drainage Board.

**20.17 Private and Mutual Drains**: No battery energy storage system may encroach upon any private or mutual drain or ditch. If the construction of the system requires the relocation of any private or mutual drain or ditch, such relocation must be approved by the parties to the private or mutual drain or ditch, performed at the expense of the operator, and relocated in a manner so as not to materially impede the function of the drain or ditch. This obligation to refrain from encroaching upon any private or mutual drain or ditch continues and applies even if the encroachment is discovered after construction of the project.

**20.18 Enforcement**: In the event of a violation of this Section, the Zoning Administrator may enforce the Ordinance using the rights and remedies provided for in Section 5.04 of the Zoning Ordinance.