

LEGAL NOTICE – POWESHIEK COUNTY

Board of Supervisors – Notice of Public Hearing

Public notice is hereby given that the Poweshiek County Board of Supervisors will hold a public hearing for the first reading in consideration of **Ordinance #33 “An Ordinance Adopting Regulations for Utility-Scale Solar Energy Systems (US-SES), Battery Energy Storage Systems (BESS), and Commercial Energy Battery Storage Systems (C-BESS) on Property Located in the Unincorporated Areas of Poweshiek County, Iowa”** at their regular meeting on Monday, December 23, 2024, at 9:00 a.m. in the Poweshiek County Courthouse, Montezuma, Iowa. Copies of the full text of said Ordinance are available to the public at the Poweshiek County Auditor’s Office or on the County’s website at [www.poweshiekcourt.org](http://www.poweshiekcourt.org)

Summary: The purpose of this ordinance is to establish guidelines for the siting, design, construction, and decommissioning of US-SESs and C-BESS which generate and/or store electricity to be sold to wholesale or retail markets. In addition, the purpose of this Ordinance shall be to promote public health, safety, comfort, and general welfare, while facilitating economic opportunities for rural residents and promoting a goal of increased energy production from renewable energy sources. The requirements of this Ordinance shall apply to all US-SESs and C-BESS constructed after the effective date of this Ordinance.

Melissa Eilander, Poweshiek County Auditor

**DRAFT ORDINANCE #33**

AN ORDINANCE ADOPTING REGULATIONS FOR UTILITY-SCALE SOLAR ENERGY SYSTEMS (US-SES), BATTERY ENERGY STORAGE SYSTEMS (BESS), AND COMMERCIAL ENERGY BATTERY STORAGE SYSTEMS (C-BESS) ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF POWESHIEK, IOWA.

BE IT ENACTED BY THE POWESHIEK COUNTY BOARD OF SUPERVISORS:

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Poweshiek County Board of Supervisors:

**SECTION 1. PURPOSE.**

The purpose of this ordinance is to establish guidelines for the siting, design, construction and decommissioning of US-SESs and C-BESS which generate and/or store electricity to be sold to wholesale or retail markets. In addition, the purpose of this Ordinance shall be to promote public health, safety, comfort and general welfare, while facilitating economic opportunities for rural residents and promoting a goal of increased energy production from renewable energy sources. The requirements of this Ordinance shall apply to all US-SESs and C-BESS constructed after the effective date of this Ordinance.

**SECTION 2. DEFINITIONS.**

**Commercial Solar Energy System (C-SES)** - A system that converts energy from sunlight into electricity or an additional energy source such as heat.

**Residential Small-Scale Solar Energy System** - A solar energy system that is installed at a residence or business to meet the electrical demands at that location. These systems are typically intended to offset electricity use for the owner and are not intended to be net generators of electricity.

**Concentrating Solar Power (CSP)** - A system that generates solar power by using mirrors or lenses to concentrate a large area of sunlight onto a receiver.

**Utility-Scale Solar Energy System (US-SES)** - A group of interconnected solar panels/arrays that convert sunlight into electricity for the primary purpose of wholesale or retail sales of generated electricity. This definition does not apply to consumer scale solar installations that are constructed primarily to provide power for use on-site.

**Battery Energy Storage System (BESS)**- One or more devices, assembled together, capable of storing energy in order to supply electrical energy for later use. The energy may be used onsite or distributed into the electrical grid.

**Commercial Battery Energy Storage System (C-BESS)**- One or more devices, assembled together, capable of storing energy in order to supply electric energy for the primary purpose of wholesale or retail sales of generated electricity, and which is proposed either as part of a commercial solar energy system or wind farm or that is proposed as a standalone project. This includes all accessory equipment necessary for energy storage, including but not limited to, inverters, transformers, cooling equipment, switching gear, metering equipment, transmission tie-lines, other power interconnection facilities, and/or a project substation.

**Easement** - A legal interest in land, as defined in a document recorded in the office of the Poweshiek County Recorder, granted by the landowner to another person or entity, which allows that person(s) or entity(ies) the use of all or a portion of the landowner's land, generally for a stated purpose, including, but not limited to, access or placement of utilities.

**Lease** - A contract between two parties where one party, the lessor, allows the other party, the lessee, use of their property for a period of time in exchange for consideration, usually a monthly sum of money. The original landowner ultimately retains possession of the property.

**Transmission Lines** - Power lines used to carry electricity from collection systems or substations over medium to long distances rather than directly interconnecting and supplying energy to retail customers.

**Feeder Circuits/Lines** - A power line or network of lines used as a collection system that carries energy produced by a solar energy system to an interconnection point like a substation. Feeder circuits are most often placed underground.

**Interconnection**- Link between a generator of electricity and the electrical grid.

**Module** - An individual unit composed of multiple photovoltaic (PV) cells, with multiple modules used in a solar energy system.

**Mounting** - The method of anchoring solar energy system modules to the ground or a building.

**National Electric Code (NEC)** – The benchmark for safe electrical design, installation, and inspection to protect people and property from electrical hazards.

**Non-Participating Landowner** - Any landowner that has not signed a lease agreement or granted easement to the project owner or developer, often adjacent to or near the project.

**Participating Landowner** - A landowner that has signed a lease agreement or granted easement to the applicant, project owner or developer.

**Operator** -The entity(ies) or individual(s) responsible for the day-to-day operation and maintenance of the solar energy system, including third party subcontractors.

**Owner** - The entity or individual that has ownership over a solar energy system(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom the land is leased for locating the solar energy system (unless the property owner has equity interest in the solar energy system); or (ii) any person holding a security interest in the solar energy system(s) solely to secure an extension of credit or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the solar energy system(s) at the earliest practicable date.

**Applicant** - The owner or operator of the US-SES.

**Professional Engineer** – A qualified individual who is licensed in the State of Iowa as a professional engineer.

**Structure** - Anything constructed or erected on the ground or attached to the ground, including but not limited to, antenna(s), buildings, sheds, cabins, dwellings (built on-site or factory built homes), signs, storage tanks, towers, windmills or other similar uses.

**Substation** - A subsidiary station of electricity generation, transmission and distribution system where voltage is transformed from high to low or the reverse using transformers.

**System Height** - The height of a solar energy system, usually referring to ground mounted systems. Total system height is the measurement from the ground to the top of the mounting or modules associated with a system, whichever is greater.

### **SECTION 3. PERMITTED LOCATIONS.**

A US-SES is a Special Permitted Use, as provided in the Poweshiek County Zoning Ordinance of 2011 Article XX. US-SES are not permitted in the R-1, R-2, R-3, LA, and LA-S districts.

A Special Use Permit will be considered upon determination that all applicable conditions of this Ordinance are met. Special Use Permit Applications are submitted to the Poweshiek County Board of Adjustment for action pursuant to Article XX of the Poweshiek County Zoning Ordinance accompanied by a fee as established by the Poweshiek County Board of Supervisors and Payable to Poweshiek County Zoning.

### **SECTION 4. CAP ON TOTAL ACRES UTILIZED FOR US-SES.**

There shall be a cap of six-hundred forty (640) total acres per project devoted to the placement of a US-SES. A participating landowner who wishes to appeal the denial of a US-SES construction permit on the basis that the total acreage cap has been met or exceeded must contact the Poweshiek County Zoning Office to receive the current Request for Variance form. The participating landowner must complete the form in its entirety, and file with the Poweshiek County Zoning Office for review by the Board of Adjustment.

#### **SECTION 5. GENERAL REQUIREMENTS FOR US-SES.**

- a. **Concentrating Solar Power (CSP) Systems.** Concentrating Solar Power Systems shall be prohibited.
- b. **Site Plan.** A site plan shall be submitted to the Poweshiek County Zoning office and reviewed prior to approval of a US-SES.
- c. **Setbacks.** Setbacks for all structures (including solar arrays) shall be the same as what is required for residences in the Agricultural District unless the Board of Adjustment finds that less is warranted. No setbacks are required where a property line is shared by two participating landowners. No part of a solar energy system shall be closer than 1250 feet from a residence or livestock facility. A US-SES must be at least one-half mile from a separate US-SES. Mandated setback distances may be waived with the written consent of participating landowners and adjacent property landowners.
- d. **Screening.** A landscape buffer may be required to be installed and maintained during the life of the operation if a Special Use Permit is required. Determination of screening requirements will be made by the Board of Adjustment as part of the review and approval process and will be based on adjacent or nearby surrounding land uses and topography.
- e. **Utility connections.** Reasonable efforts shall be made to place all connections within the solar installation underground, depending on appropriate soil conditions, shape and topography of the site, distance to the connection, or other conditions or requirements. All components used for the collection, conversion, and storage of energy shall be contained within the leased and fenced project area, excluding overhead and underground transmission lines.
- f. **Grading plan.** A grading plan shall be submitted and shall include all proposed changes to the landscape of the site (e.g., clearing, grading, topographic changes, tree removal, etc.)
- g. **Glare minimization.** All solar panels shall be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic, including air traffic, or create a safety hazard.
- h. **Compliance with local, state and federal regulations.** Consultation with or notifications from relevant state and federal agencies showing the project will not be a hazard to wildlife,

communications, air traffic and other related matters is required. All US-SES shall conform to applicable industry standards, including those from the Underwriters Laboratory and Federal Aviation Administration. US-SES installations shall comply with all applicable local, state and federal regulations.

- i. **Appurtenant structures.** All appurtenant structures shall be subject to bulk and height regulations of structures in the applicable zoning district except where otherwise approved and shall not be taller than 20 feet above grade.
- j. **Floodplain considerations.** US-SES installations are considered to be maximum damage potential structures and facilities for purposes of the floodplain district regulations. USSES installations are strongly discouraged within the 1% Special Flood Hazard Area (100 year floodplain), but may be allowed subject to provisions of the Poweshiek County Floodplain Management Ordinance and Iowa Department of Natural Resources Flood Plain Management.
- k. **Fencing/security.** An NEC compliant security fence must be installed along all exterior sides of the US-SES and be equipped with a minimum of one gate and locking mechanism on the primary access side. Security fences, gates and warning signs must be maintained in good condition until the US-SES installation is dismantled and removed from the site.
- l. **Signage.** Signage with the following information shall be maintained at all locked entrance locations:
  - 1. A visible “High Voltage” warning sign;
  - 2. Name(s) and phone number(s) for the electric utility provider;
  - 3. Name(s) and phone number(s) for the site operator;
  - 4. The facility’s 911 address, GPS coordinates; and,
  - 5. A lockbox with keys as needed.
- m. **Operation and maintenance plan.** The applicant shall submit a plan for the operation and maintenance of the solar installation, which shall include measures for maintaining safe access to the installation, stormwater and erosion controls, as well as general procedures for operation and maintenance of the installation.
- n. **Soil erosion and sediment control considerations.** The applicant agrees to conduct all roadwork and other site development work in compliance with a national pollutant discharge elimination system (NPDES) permit as required by the Iowa Department of Natural Resources and comply with requirements as detailed by local jurisdictional authorities during the plan submittal. If subject to NPDES requirements, the applicant must submit the permit for review and comment and an erosion and sediment control plan before beginning construction. The plan must include both general “best management practices” for

temporary erosion and sediment control both during and after construction and permanent drainage and erosion control measures to prevent damage to local roads or adjacent areas and to prevent sediment laden run-off into waterways.

- o. **Stormwater management considerations.** Storm and water runoff shall be controlled through enclosed storm sewers or overland drainage. Detention facilities sufficient to capture runoff of a twenty-five (25) year storm shall be placed in the US-SES. The release rate of storm water out of the detention facility shall be restricted so as not to exceed the volume produced by a five (5) year storm. The velocity of water leaving the US-SES shall be reduced so as not to cause erosion. Drainage easements may be required, but the land shall remain privately owned. A drainage easement is required where storm water from a US-SES crosses an adjacent property to reach a natural stream or public drainage facility. Enclosed storm sewers require Poweshiek County Engineer approval before construction of the US-SES begins.
- p. **Ground cover and buffer areas.** Ground around and under solar arrays and in project site buffer areas shall be planted and maintained in perennial vegetated ground cover, and meet the following standards:

  1. Top soil shall not be removed during development, unless part of the remediation effort.
  2. Soils shall be planted and maintained in perennial vegetation to prevent erosion, manage run off and build soil. Blooming shrubs may be used in buffer areas as appropriate for visual screening.
  3. Notification of the landowner, farm tenant and adjoining landowner shall be required and approval of the landowner secured prior to the company enrolling the land in a Candidate Conservation agreement or Habitat Conservation Plan under the Endangered Species Act. The notification should include information about the size of the buffer areas to adjacent properties, a summary of the agreement or plan, and where the landowner, tenant or adjoining landowner may obtain more information.
- q. **Maintenance, operation, repair or replacement of facility.** Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to emergency response officials. Any retrofit, replacement or refurbishment of equipment shall adhere to all applicable local, state and federal requirements. Note: Expansion of a US-SES will require a new application following the same requirements as the original application.
- r. **Access Required.** The Zoning/Building Official and any other necessary personnel may enter the property for which a Special Use or Building Permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met as specified by statute, ordinance or code. An annual on-site tour shall be provided to local emergency responders to ensure awareness of critical infrastructure within the facility in the event of an emergency. Failure to provide access shall be deemed a violation of this ordinance.

- s. **Emergency Services.** The Applicant, Owner or Operator shall submit a copy of the site plan and Emergency Action Plan to the Poweshiek County Emergency Management Administrator. The Emergency Action plan must include 24-hour contact information for US-SES Emergency Operations Personnel and shall be updated with Poweshiek County Emergency Management annually, or within 48 hours of changes to the emergency contact.

## **SECTION 6. SITING APPROVAL APPLICATION REQUIREMENTS US-SES.**

In addition to all submittal requirements of a site plan and Special Use Permit application, the application for a US-SES installation shall include the following information on the site plan or in narrative form, supplied by US-SES owner, operator or contractor installing the structures.

1. Project summary, including, to the extent possible: (1) a general description of the project, including its approximate nameplate generating capacity; the potential equipment manufacturer(s), type(s) number, location and spacing of solar panels/arrays (2) a description of the Applicant, Owner & Operator, including their respective business structures. Number, location and spacing of solar panels/arrays.
2. The legal description and address of the project.
3. Site plan to be an aerial photo or scale drawing of the project location and surrounding area including the location of property lines, solar panels/arrays, electrical wires, interconnection points with the electrical grid (location of underground or overhead electric lines), and all related accessory structures. This shall include distances, latitude and longitude of solar panels/arrays and be drawn to scale. In providing the above information the plan shall use a GPS coordinate system that is compatible with the County's geographical information system (GIS).
4. Project development timeline which indicates how the applicant will inform adjacent property landowners, persons in possession (tenants) and interested stakeholders in the community.
5. Documentation of land ownership or legal control of the property.
6. Interconnection plan.
7. Operation and maintenance plan.
8. Decommissioning plan.
9. Site and structure requirements.

No construction activities on a US-SES may be begin until a Zoning/Building Permit has been issued. If construction on the US-SES has not begun within twelve (12) months from the date of issuance of the Zoning/Building Permit, the permit shall be reviewed by the Poweshiek County Zoning Administrator to determine if a new Building Permit is required.

If the project is not completed within 3 years of the issuance of the Conditional Use Permit, a review by the Zoning Administrator must be completed to determine if the project will require a new Conditional Use Permit to complete or start the project.

**For projects 25 MW or larger, the Application of Certificate, required by the Iowa Utilities Board, will be considered acceptable to meet the above additional requirements. In cases where a Special Use Permit is required, the current application to the Board of Adjustment shall still be required.**

#### **SECTION 7. INFRASTRUCTURE PROTECTION AND ROAD USE AGREEMENTS US-SES.**

- 1. Roads.** A Road Use Agreement must be in Place with Poweshiek County prior to the issuance of a Building Permit. Applicants shall identify all roads to be used for the purpose of transporting the solar energy system, substation parts, cement, and/or equipment for construction, operation or maintenance of the solar energy system and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
- 2. Existing Road Conditions.** Applicant shall conduct a pre-construction baseline survey, in coordination with the impacted local road authority(ies) to determine existing road conditions for assessing potential future damage. The survey shall include photographs and a written agreement to document the condition of the public facility. The applicant is responsible for on-going road maintenance and dust control measures identified by the Poweshiek County Engineer during all phases of construction. The applicant is responsible for any costs required to repair roads to pre-construction baseline condition. Poweshiek County reserves the right to halt operations if road conditions deteriorate to a point that creates a hazard to the public as determined by the Poweshiek County Engineer.
- 3. Drainage System.** The Applicant shall be responsible for immediate repair of damage to public or private drainage systems stemming from construction, operation or maintenance of the US-SES. Any development plan must provide documentation that the project will not negatively affect the operation of existing agricultural drainage tiles on adjacent properties.
- 4. Performance Bond or Equivalent Financial Instrument.** The applicant shall be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) sufficient to restore the road(s) and bridges to preconstruction conditions. A performance bond or equivalent financial instrument, approved by the Poweshiek County Attorney's Office, shall be submitted covering 130% the costs of all required improvements. This requirement may be waived by the Board of Adjustment by written recommendation from the Poweshiek County Engineer.

#### **SECTION 8. DISCONTINUANCE/DECOMMISSIONING AND SITE RECLAMATION US-SES.**

- 1.** The application must include a decommissioning plan submitted in a form satisfactory to the Zoning Administrator and shall be reviewed by the Poweshiek County Engineer. The site shall be considered a "discontinued use" if after the US-SES installation is in service, following a continuous one-year period in which no electricity is generated, or if substantial action on the project is discontinued for a period of one year. Once declared to be a discontinued use, the permit holder will have one year to complete decommissioning of the US-SES installation. Decommissioning shall be completed in accordance with the decommissioning plan. The owner or operator of the system must notify the County within 30 days of the project's discontinuation.
- 2.** The Decommissioning plan shall contain:



- A. A description of the project components, and a sequence and description of the activities required to removed the same in compliance with this section.
- B. A report prepared by a qualified third-party (to be approved by the Zoning Administrator in advance) setting forth the procedures and estimated net cost associated with the removal of components (excluding feeder lines) to a depth of not less than four (4) feet and the accompanying restoration of the surface to the original elevation with re-vegetation of restored soil areas with crops, native seed mixes, or plant species suitable to the area, consistent with the county's weed control plan.
- C. A road use agreement (approved by the Poweshiek County Engineer in advance) that outlines the responsibility of the US-SES owner to maintain and restore designated haul routes to their previous condition prior to decommissioning.
- D. Cash or another form of financial instrument must be held in escrow by a financial institution, or an irrevocable letter of credit, or a performance bond (approved by the Poweshiek County Attorney in advance) running in favor of the County in an amount no less than the total estimated net removal/restoration costs as determined by said report. Said security must be in place prior to issuance of the US-SES Zoning/Building Permit and must remain in effect until decommissioning is completed. No such security shall be cancelable without notice to the Zoning Administrator. Each year, the permit holder shall provide proof that such security is in effect.
- E. The report prepared under paragraph B above shall be updated and provided to the County at least every five (5) years, and upon any proposed transfer of the US-SES permit or ownership.
- F. No transfer/assignment of the US-SES permit shall be effective without a corresponding transfer/assignment of the obligations of financial security required under the decommissioning plan as approved by the Zoning Administrator and Poweshiek County Engineer.

For any part of the energy project on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates or repurposed buildings in place or regarding restoration of agricultural crops or forest resource land. Any use of remaining structures must be in conformance with the regulations in effect at the time.

## **SECTION 9. TRANSFER**

Zoning/Building permits and associated decommissioning plans and road use agreements granted under this Ordinance are binding upon any future owners, successors or assigns of the US-SES.

## **SECTION 10: Commercial Battery Energy Storage Systems (C-BESS)**

A C-BESS is a Special Permitted Use, as provided in the Poweshiek County Zoning Ordinance of 2011 Article XX. C-BESS are not permitted in the R-1, R-2, R-3, LA, and LA-S districts. The following conditions must be met:

1. **Application.** In making application for a Conditional Use Permit, the applicant shall file the following in addition to the application and required fees:
  - a. Project Description
  - b. Site Plan showing location of the C-BESS, associated equipment, and transmission lines and showing closest setback and separation distances. If applicable, the location of the FEMA regulated special flood hazard area (100-year floodplain or area with 1% chance of flooding in a given year) shall also be shown.
  - c. Operation and Maintenance Plan
  - d. Equipment specification sheets, diagrams, and engineering certifications
  - e. Landscaping Plan
  - f. Emergency Response Plan
  - g. Decommissioning Plan
  - h. Copies of all sound waiver easement agreements, if applicable
2. **Setbacks and Siting.** C-BESS shall be subject to the following setback and siting requirements:
  - a. All components of C-BESS shall be a minimum of fifty (50) feet from non-participating property lines, road right-of-way, and railroad right-of-way.
  - b. If the C-BESS is to be installed in conjunction with a Commercial Solar Energy System (C-SES) development, the C-BESS shall be sited so as to be located within the interior of said development with the banks of solar panels lying between the battery energy storage system and the edges of the development.
3. **Height.** C-BESS shall comply with the building height limitations for principal structures of the zoning district in which it is located.
4. **Fencing.** C-BESS, including all mechanical equipment, shall be enclosed by an eight (8) foot tall fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
5. **Vegetative Screening.** In effort to mitigate any potential negative effects and reduce the visual impact of the facility, the perimeter of the facility shall be landscaped to create a visual screen from neighboring properties. A landscaping plan shall be submitted with the application. Landscaping shall be installed around the exterior perimeter of the use area and fencing in accordance with the following:
  - a. The landscaping buffer shall preferably use trees, shrubs, grasses, and forbs that are native to Iowa, or where appropriate, may include naturalized and non-invasive species
  - b. The landscaping buffer shall use a combination of trees and plants to provide a vegetative screen. Trees shall be at least six (6) feet tall within three (3) years of installation, and shall have a minimum mature height of twelve (12) feet or the height of any fencing, whichever is taller. Landscaping shall be evaluated under leaf-on conditions.
  - c. The planning area shall extend no further than fifty (50) feet beyond the outside of the use area, including the security fence.
  - d. At the discretion of the Board of Adjustment, the minimum mature height of vegetative screening may be modified where the applicant can show good cause or practical difficulty.

- e. If the C-BESS is being constructed within the landscaping buffer of a larger project, the Board of Adjustment may waive or modify the requirements in this sub-section specific to C-BESS.
6. **Safety.** The C-BESS shall comply with the following safety standards:
- a. **Signage.** The C-BESS shall have signage in compliance with ANSI Z535 and shall include the type of technology associated with the C-BESS, any special hazards associated, the type of suppression system installed in the area of C-BESS, and 24-hour emergency contact information, including reach-back phone number. As required by the National Electric Code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
  - b. **Minimum Clearance.** Areas within ten (10) feet of the C-BESS shall be clear of combustible vegetation or other combustible materials or growth.
  - c. **Fire and Safety Compliance.** The applicant shall be responsible in meeting all standards of the National Fire Protection Association (NFPA) and applicable state and federal fire and safety requirements, including but not limited to NFPA 1, NFPA 70, NFPA 855, and the National Electrical Code (NEC).
  - d. **Emergency Response Plan.** The applicant, owner, or operator shall submit a copy of the site plan of the C-BESS development and Emergency Response Plan to the Poweshiek County Emergency Management Coordinator and applicable local fire departments. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and local first responders. The emergency operations plan shall include the following information:
    - i. Twenty-four (24) hour emergency contact information for the C-BESS development.
    - ii. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
    - iii. Procedures for inspection and testing of associated alarms, interlocks, and controls.
    - iv. Procedures to be followed in response to notifications from the battery energy storage system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
    - v. Procedures and schedules for conducting drills of said procedures and for training local first responders on the contents of the plan and appropriate response procedures.
  - e. **Emergency Response Training.** The applicant shall contact and develop a training program for emergency response with the Poweshiek County Emergency Management Coordinator and local first responders. At the discretion of the Poweshiek County Emergency Management Coordinator, the operator may be

required to provide training sessions or standard emergency equipment to local first responders.

7. **Operations and Maintenance Plan.** The applicant shall describe the ongoing maintenance schedule and operations for the C-BESS as well as the general upkeep of the equipment.
8. **Roads.** Prior to construction, the applicant shall enter into agreement with Poweshiek County and shall meet all of the following requirements at a minimum, in addition to all requirements of the Poweshiek County Engineer's Office:
  - a. The applicant shall develop a construction plan identifying proposed construction routes, intersection modifications, or other necessary road right-of-way modifications. Construction routes shall be via paved roads to the extent feasible. However, the applicant shall use construction routes as directed by the Poweshiek County Engineer. The Poweshiek County Engineer shall approve all road, road right-of-way, and intersection modifications for construction purposes prior to construction.
  - b. The applicant shall conduct a pre-construction survey, at its expense and in coordination with the Poweshiek County Engineer, to determine existing road, road right of-way, and bridge conditions. The survey shall include photographic or video documentation and shall be provided to the Poweshiek County Engineer prior to construction.
  - c. The applicant shall be responsible for restoring and paying for any damage to road, road-right-of-way, and bridges to pre-construction or better condition.
  - d. The applicant shall be responsible for making reasonable efforts to apply dust control on applicable gravel-surfaced roads or at construction sites to prevent fugitive dust from becoming a nuisance as regulated by Iowa Code, Chapter 657 (or as amended) and Iowa Administrative Code 567—Chapter 23.3 (or as amended).
  - e. The applicant shall be responsible to obtain all oversize permits as required by the Poweshiek County Engineer.
9. **Drainage Infrastructure.** Prior to construction, the applicant shall follow all established procedures of Poweshiek County and state law regarding public drainage infrastructure and right-of-way that may be affected by a proposed C-BESS. The applicant shall be responsible for the immediate repair of any damage to drainage infrastructure resulting from the construction, operation, or maintenance of a C-BESS.
10. **Sound.** The one-hour average noise generated by the C-BESS components and associated ancillary equipment shall not exceed a noise level of 50 decibels (dBA) as measured from the nearest point of any dwelling or occupied building. Applicants may submit equipment and component manufacturer noise ratings at the time of application to demonstrate compliance. If the ambient sound pressure level exceeds 50 decibels (dBA), the standard shall be the ambient LEQ (equivalent continuous sound pressure level) plus five (5) decibels (dBA).
  - a. At the discretion of the Board of Adjustment, the applicant may be required to provide a baseline noise evaluation study completed by a board certified professional by the Institute of Noise Control Engineering (INCE), or an appropriately licensed professional engineer (PE) prior to construction of the proposed C-BESS development.

- b. To document decibel level if there is a complaint on an operational system, at the discretion of the Zoning Administrator, the owner or operator shall commission a report providing operating sound pressure level measurements from a reasonable number of sampled locations at the outside wall of the nearest dwelling or occupied buildings to demonstrate compliance with this standard. Said report shall be completed by a board certified professional by the Institute of Noise Control Engineering (INCE) or an appropriately licensed professional engineer (PE).
  - c. C-BESS may exceed maximum sound levels upon agreement with an affected property owner. Said agreement shall be in the form of a sound waiver easement agreement and officially recorded in the Poweshiek County Recorder's Office. A copy of any applicable sound waiver easement agreement shall be provided at the time of application.
11. **Discontinuation and Decommissioning.** The following requirements and procedures shall apply to any permitted C-BESS:
- a. **Decommissioning Plan-** A decommissioning plan shall be submitted with the application. The plan shall include removal of batteries, buildings, cabling, electrical components, roads, foundations, and all applicable accessory equipment and any other associated facilities as determined by the Zoning Administrator.
  - b. **End of Useful Life-** The applicant, operator, or owner shall, at its expense, complete decommissioning of the C-BESS, within twelve (12) months after the end of its useful life. The C-BESS shall be presumed to be at the end of its useful life if no electricity is stored for a continuous period of one (1) year unless the development owner or operator is granted an extension by the Board of Adjustment.
  - c. **Remediation of C-BESS-** The property on which the C-BESS is located shall be returned to its preconstruction state, unless the participating landowner requests in writing that the access roads or other land surface areas not be restored.
  - d. **Cost Estimate of Decommissioning-** An independent licensed engineer shall be retained to estimate the total cost of decommissioning the C-BESS and associated facilities. Said estimates shall be submitted to the Zoning Administrator with the initial application and every fifth year thereafter.
    - 1. The C-BESS owner or operator shall post and maintain decommissioning funds in an amount equal to the total estimated decommissioning costs. Prior to the completion of construction, one hundred percent (100%) of the total estimated decommissioning costs of the total decommissioning costs shall be posted to the decommissioning fund. The decommissioning fund shall be maintained at one hundred percent (100%) of the total estimated decommissioning costs with any increase of the total estimated decommissioning costs as may be updated every fifth year.
    - 2. Decommissioning funds shall be maintained in the form of cash or other form of financial instrument must be held in escrow in a financial institution, certificate of deposit, performance bond, escrow account, surety bond, letter of credit, corporate guarantee, or other form of financial assurance as agreed to by the Zoning Administrator. Any financial document evidencing the maintenance of the decommissioning funds shall include provisions for releasing the funds to the County in the event decommissioning is not completed in a timely manner.

Decommissioning funds as may otherwise be required by the Iowa Utilities Board shall be considered sufficient, provided that such funding meets the requirements of this Section.

- e. **Failure to Complete Decommissioning-** If neither the C-BESS owner nor operator completes decommissioning within the periods described above then the decommissioning fund agent shall release the decommissioning funds to the County and the Zoning Administrator shall take necessary measures to complete decommissioning. The funds shall be released to the County after a thirty (30) day written notice is provided to the Decommissioning Fund Agent indicating the decommissioning has not occurred within the applicable period.
  - f. **Release of Decommissioning Funds-** The decommissioning fund agent shall release the decommissioning funds to the C-BESS owner or operator, as applicable, when the C-BESS owner or operator has demonstrated, and the Zoning Administrator concurs, that decommissioning has been satisfactorily completed; or upon written approval of the Zoning Administrator to continue the decommissioning plan and complete decommissioning.
12. **Contact Person and Change of Ownership.** The applicant, owner, or operator shall provide and maintain a phone number, electronic mailing address, and physical mailing address and identify a responsible person for the Zoning Administrator to contact when needed. Said information shall be provided to the Zoning Administrator and kept current with the Planning and Zoning Office. Any granted Conditional Use Permit for a C-BESS is transferrable to any future owner of said C-WECS. The applicant and any future owner shall provide notification to the Zoning Administrator upon change of ownership of any CBESS.

#### **SECTION 11. REPEALER.**

All ordinance(s) in conflict with the provisions of this Ordinance are hereby repealed, only to the extent necessary to resolve the conflict.

#### **SECTION 12. SEVERABILITY.**

Should any section or provisions of this Ordinance be declared by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be invalid or unconstitutional.

#### **SECTION 13. PENALTY.**

Any person, person's, firms, partnerships or corporations, whether acting alone or in concert with any other, who violates this Ordinance shall be guilty of a County Infraction and shall be penalized \$250. Each day a violation exists constitutes a separate offense.

#### **SECTION 14. EFFECTIVE DATE.**

This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

PASSED and APPROVED this \_\_ day of \_\_\_\_\_,2024