A PROPOSAL OF THE RIPLEY COUNTY AREA PLANNING COMMISSION TO AMEND THE RIPLEY COUNTY ZONING ORDINANCE

WHEREAS, Indiana Code § 36-1-3-4 grants units of local government all powers necessary or desirable in the conduct of local governmental affairs; and

WHEREAS, the Ripley County Area Plan Commission is authorized under IC 36-7-4 to prepare and adopt zoning regulations governing the use and development of land within its jurisdiction, including regulations addressing land use, development standards, site design, setbacks, landscaping, access, and other matters within the Commission's lawful zoning authority; and

WHEREAS, battery energy storage systems ("BESS") are increasingly being incorporated into electric energy systems and may vary substantially in size, capacity, configuration, and intended use, ranging from small systems serving individual properties to large systems providing electric energy to the broader electrical grid; and

WHEREAS, the Indiana General Assembly has established a specific regulatory framework for utility scale battery energy storage systems under IC 22-14-8, including a statutory definition of such systems under IC 22-14-8-3; and

WHEREAS, pursuant to IC 22-14-8-3, a utility scale battery energy storage system generally means an energy storage system capable of storing and releasing more than one (1) megawatt of electrical energy for a minimum of one (1) hour using an AC inverter and DC storage, subject to the exclusions established by statute; and

WHEREAS, IC 22-14-8, as amended, establishes that the Indiana Department of Homeland Security is the sole authority with respect to the regulation and approval of the installation or expansion of a utility scale battery energy storage system, while expressly preserving certain local zoning, land use, planning, and permitting authority; and

WHEREAS, IC 22-14-8-4(g) expressly provides that the statutory limitations on local regulation do not affect the ability of a local unit to exercise zoning, land use, planning, or permitting authority otherwise allowed under Indiana law, including IC 36-7, with respect to the installation or expansion of a utility scale battery energy storage system; and

WHEREAS, the Area Plan Commission recognizes that its authority to regulate utility scale battery energy storage systems is subject to the limitations established by IC 22-14-8, and that this ordinance is not intended to duplicate, supersede, or conflict with the authority granted by State law to the Indiana Department of Homeland Security or any other state agency; and

WHEREAS, the Area Plan Commission finds that the siting and physical development of BESS facilities may have land-use impacts relating to the compatibility of surrounding uses, setbacks, screening, visual impacts, access, drainage, stormwater, potential release of hazardous materials, emergency access, and other impacts that may appropriately be considered through local zoning and land-use regulation; and

WHEREAS, the Area Plan Commission further recognizes that BESS facilities that do not meet the statutory definition of a utility scale battery energy storage system under IC 22-14-8-3, including certain systems serving or offsetting the energy needs of a host operation, may remain subject to local zoning and other applicable state and local requirements; and

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WHEREAS, the Area Plan Commission finds that establishing reasonable and clearly defined land-use standards for BESS facilities will provide predictable standards for property owners, developers, neighboring property owners, emergency responders, and local government while preserving the respective regulatory authority of the State of Indiana and local governmental units; and

WHEREAS, the Area Plan Commission further finds that the purpose of these regulations is to address the land-use and site-development impacts of BESS facilities and not to establish an independent local fire, building, electrical, or life-safety code or to regulate matters reserved to the State of Indiana or another governmental authority; and

WHEREAS, the Area Plan Commission recognizes that compliance with this ordinance does not relieve an applicant or owner of a BESS facility from compliance with all applicable federal and State laws, rules, codes, permits, approvals, and other regulatory requirements.

WHEREAS, utility-scale Battery Energy Storage Systems ("BESS") involve specialized technologies that may present unique land-use, operational, fire protection, emergency response, environmental, and infrastructure considerations; and

WHEREAS, the Ripley County Commissioners [and other participating jurisdictions of the Ripley Co. APC] find that the owners and operators of utility-scale Battery Energy Storage Systems should be responsible for the costs associated with the planning, construction, operation, monitoring, emergency preparedness, mitigation of risks, and decommissioning of such facilities, rather than imposing such costs upon local taxpayers, governmental agencies, or emergency response organizations; and

WHEREAS, the Ripley County Commissioners [and other participating jurisdictions of the Ripley Co. APC] further find that the placement, construction, operation, maintenance, and decommissioning of utility-scale Battery Energy Storage Systems should be conducted in a manner that protects public health, safety, and welfare and avoids unreasonable impacts upon emergency services, public infrastructure, agricultural land, neighboring properties, and community resources; and

WHEREAS, the Ripley County Commissioners [and other participating jurisdictions of the Ripley Co. APC] determine that it is necessary and appropriate to establish regulations governing the zoning of utility-scale Battery Energy Storage Systems in order to allocate responsibility for associated risks and impacts fairly and to safeguard the residents, property owners, and resources of Ripley County.

WHEREAS, the Ripley County Area Planning Commission held a public hearing on **October ##, 2026** and provided a favorable recommendation on a zone text amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE RIPLEY COUNTY COMMISSIONERS [and other participating jurisdictions of the Ripley Co. APC] AS FOLLOWS:

The Ripley County Zoning Ordinance shall be amended as follows:

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§80.43 Definitions shall be amended to include the following:

APPLICABLE JURISDICTION: The county, city, or town having jurisdiction over the property on which a Battery Energy Storage System is located and whose legislative body is responsible for adopting and enforcing the applicable zoning regulations.

Battery Energy Storage System (BESS): An energy storage system utilizing batteries for the storage and subsequent release of electrical energy, including utility-scale and non-utility-scale systems.

Small-Scale Battery Energy Storage System (BESS): An accessory BESS with a rated power capacity of less than 100 kilowatts and an energy storage capacity of less than 1 megawatt-hour.

Medium-Scale Battery Energy Storage System (BESS): An accessory BESS with a rated power capacity of at least 100 kilowatts but less than or equal to 1 megawatt, and an energy storage capacity of at least 1 megawatt-hour but less than or equal to 4 megawatt-hours.

Large-Scale (Non-Utility) Battery Energy Storage System (BESS): A BESS that does not meet the definition of a Utility-Scale BESS under IC 22-14-8-3, a system deemed to be stand alone and not accessory to an approve use, or one that exceeds either the power or energy capacity threshold established for Medium-Scale BESS.

Utility-Scale Battery Energy Storage System (BESS): An energy storage system that meets the definition of a utility-scale battery energy storage system under IC 22-14-8-3, as amended.

BESS OWNER: The person or legal entity holding an ownership interest in the BESS facility.

BESS LANDOWNER: The owner of real property upon which a BESS is located, excluding a person who merely leases property to the BESS owner and has no ownership interest in the BESS.

SENSITIVE LAND USE: A land use occupied by persons who may be particularly vulnerable to, or may be substantially affected by, fire, smoke, toxic gases, noise, or other potential hazards associated with a Battery Energy Storage System, including schools, child care facilities, hospitals, nursing homes, assisted living facilities, and similar institutional or residential care facilities.

SOUND LEVEL, A-WEIGHTED (dBA): A measurement of sound pressure level expressed in decibels using the A-weighting network of a sound level meter, which adjusts measured sound levels according to the frequency sensitivity of human hearing.

DRAFT

§80.33 Accessory Uses (C) Application of Accessory Uses shall be amended to include the following:

(16) Small-Scale Battery Energy Storage System when operated in accordance with all applicable State fire, building, electrical, and life-safety requirements, subject to the standards of §80.50.

§80.23 Contingent Uses: (A) Contingent Uses Permitted.

Type of Use	Use is Permitted
Medium-Scale Battery Energy Storage System (BESS), subject to the applicable standards of §80.50.	A-1, A-2, FR, LB, RB, GB, IB, I-1, I-2

§80.24 Special Exceptions (E)

Large-Scale (Non-Utility) Batter Energy Storage System (BESS) within the A-1, A-2, FR, I-1, and I-2 districts

Utility-Scale Battery Energy Storage System (BESS) within the I-1 and I-2 districts.

(F) Other Requirements for Special Exception

(77) Battery Energy Storage System (BESS) Large-Scale (Non-Utility). Where authorized as a Special Exception by this Chapter, shall be subject to the requirements and development standards established in §80.50, in addition to the general standards for Special Exceptions established by this section.

(78) Battery Energy Storage System (BESS) Utility-Scale. Where a Utility-Scale Battery Energy Storage System requires local zoning approval as a Special Exception, the system shall be subject to the applicable requirements of §80.50 and the general standards for Special Exceptions established by this section, to the extent permitted by State law.

Add new §80.50 Battery Energy Storage System (BESS)

(A) Purpose

The purpose of this section is to establish reasonable land use, site development, safety, and compatibility standards for Battery Energy Storage Systems (BESS) within the jurisdiction of the Area Plan Commission.

The standards established herein are intended to:

(1) Provide for the appropriate siting of Battery Energy Storage Systems within the various zoning districts;

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(2) Protect adjoining properties and the public from unreasonable adverse impacts associated with the installation and operation of Battery Energy Storage Systems;

(3) Establish appropriate standards for site access, setbacks, screening, drainage, containment, security, emergency response, and other land use considerations;

(4) Provide standards that are proportionate to the size and potential impacts of the Battery Energy Storage System;

(5) Recognize the respective regulatory authority of local government and the State of Indiana concerning Battery Energy Storage Systems; and

(6) Avoid duplication or conflict with technical requirements administered by the State of Indiana.

Nothing in this section shall be construed to establish a local fire, building, or electrical code or to regulate a matter reserved by State law to the Indiana Department of Homeland Security or another State agency.

(B) Applicability

(1) **General Applicability.** All Battery Energy Storage Systems constructed, installed, expanded, or operated within the jurisdiction of the Area Plan Commission shall comply with the applicable provisions of this section, except as otherwise provided by this Chapter or by applicable State or Federal law.

(2) **Relationship to Other Provisions.** The requirements of this section are development standards applicable to Battery Energy Storage Systems and shall be applied in addition to the use authorization, Special Exception standards, Contingent Use requirements, accessory-use requirements, and other applicable provisions of this Chapter.

(3) **Improvement Location Permit.** Except where otherwise prohibited by State law, a BESS shall not be constructed, installed, expanded, or operated in a manner that violates the applicable zoning and land-use requirements of this Chapter. Where an Improvement Location Permit or other local zoning approval is otherwise required by this Chapter, the applicant shall demonstrate compliance with the applicable requirements before commencing the activity. Nothing in this subsection shall require a separate local permit, approval, license, or fee prohibited by IC 22-14-8.

a. The applicant shall identify whether the proposed facility constitutes a "utility scale battery energy storage system" as defined by IC 22-14-8-3. The applicant shall provide sufficient documentation of the proposed

system's rated electrical capacity, energy-storage capacity, AC inverter capacity, duration, intended use, and other information necessary to determine applicability of state and local requirements. A copy of any IDHS approval or determination applicable to the proposed facility shall be provided to the Area Plan Commission prior to commencement of installation or operation, as applicable. The application for an Improvement Location Permit shall be accompanied by the following:

i. Rated power capacity: ___ kW/MW

ii. Energy capacity: ___ kWh/MWh

iii. Maximum continuous discharge: ___ hours

iv. Battery chemistry: ___

v. Number of battery enclosures: ___

vi. Total BESS equipment area: ___ sq. ft.

vii. Intended use: host operation / backup / peak shaving / grid services / other

viii. Financial Assurance (as required)

ix. Transportation Plan (as required)

x. Decommissioning Plan (as required)

xi. Site Plan: compliant with the following section.

b. Site Plan. A site plan submitted for a BESS shall identify, as applicable:

xii. Property boundaries, dimensions, and identification of adjoining properties;

xiii. Existing and proposed structures with required setbacks and separation distances;

xiv. Location and dimensions of all BESS equipment, including battery enclosures, cabinets, containers, inverters, transformers, switchgear, and associated equipment;

xv. Rated power capacity in kilowatts or megawatts;

xvi. Energy storage capacity in kilowatt-hours or megawatt-hours;

xvii. Battery chemistry or technology;

xviii. Fencing, gates, and security measures;

DRAFT

xix. Existing and proposed roads and emergency access routes and any gates or other controlled access points. Emergency access shall comply with applicable State fire and building requirements;

xx. Drainage patterns and stormwater facilities;

xxi. Proposed screening and landscaping;

xxii. Utility connections and associated equipment;

xxiii. Existing surface waters, delineated special flood hazard areas, wetlands, drainageways, and other significant environmental features located on or adjacent to the site; and

xxiv. Any other information reasonably necessary to determine compliance with this section.

(4) **Cumulative Requirements.** Unless expressly provided otherwise, the requirements of each applicable classification shall be cumulative as follows:

a. Small-Scale Battery Energy Storage Systems: Subsection (C);

b. Medium-Scale Battery Energy Storage Systems: Subsections (C) and (D);

c. Large-Scale Battery Energy Storage Systems: Subsections (C), (D), and (E); and

d. Utility-Scale Battery Energy Storage Systems: Subsections (C), (D), (E), and (F), except where a provision is expressly identified as being subject to State regulation or otherwise limited by applicable law.

(5) **Accessory Uses.** A Battery Energy Storage System that qualifies as an accessory use under §80.33 shall remain subject to the applicable requirements of this section based upon its rated power capacity.

(6) **Principal or Standalone Uses.** A Battery Energy Storage System that is not incidental and subordinate to a permitted principal use shall be considered a principal or standalone use and shall be permitted only where expressly authorized by the applicable zoning district provisions of this Chapter.

(7) **State-Regulated Systems.** Nothing in this section shall be construed to require an owner or operator of a Utility-Scale Battery Energy Storage System to obtain an approval, permit, license, or fee prohibited by IC 22-14-8, or to regulate the ownership or operation of a Utility-Scale Battery Energy Storage System in a manner prohibited by State law.

(8) **State and Federal Requirements.** Battery energy storage systems shall comply with all applicable State and federal fire, building, electrical, and environmental requirements. Compliance with this section does not relieve

DRAFT

an applicant or owner from compliance with applicable State or Federal laws, rules, codes, standards, permits, approvals, or utility interconnection requirements.

(C) GENERAL REQUIREMENTS

(1) Codes and Standards. All Battery Energy Storage Systems shall be designed, constructed, installed, operated, maintained, and decommissioned in accordance with all applicable federal, State of Indiana, and local laws, regulations, codes, and standards, including, but not limited to, the Indiana Building Code, Indiana Fire Code, Indiana Electrical Code, National Electrical Code (NFPA 70), NFPA 855, UL 9540, UL 9540A, and other applicable standards, as adopted and amended by the State of Indiana. Where a BESS is subject to the Indiana Utility Scale Battery Energy Storage System requirements under IC 22-14-8, the system shall comply with all applicable requirements of IC 22-14-8, the rules of the Indiana Fire Prevention and Building Safety Commission, and requirements of the Indiana Department of Homeland Security.

(2) Setbacks. All BESS equipment must be as follows:

a. No BESS equipment shall be located within a public right-of-way or within an easement unless expressly authorized by the entity having jurisdiction over such right-of-way or easement.

b. Setback shall be measured from the nearest edge of any BESS equipment, security fence, or other permanent facility component, whichever is closest to the applicable property line.

c. BESS equipment shall not encroach into a required front yard or setback and additional yard requirement, see Sec. 80.25.

d. Greater setbacks may be required where necessary to satisfy NFPA 855, IDHS requirements, the manufacturer's installation requirements, or the approved fire-safety analysis.

e. Where a greater setback is required by this section, the greater setback shall apply.

f. Setback Modification. A setback greater than the minimum setback required by the underlying zoning district, as applied under subsection e., may be reduced from a nonparticipating property upon the written consent of the affected property owner, provided that the consent is executed by the owner of record, identifies the affected property and the agreed-upon setback, and is recorded in the Office of the Ripley County Recorder before issuance of the applicable zoning approval or permit. The recorded agreement shall run with the affected property

DRAFT

for the duration of the BESS facility, unless otherwise provided by the recorded agreement.

(3) Expansion. Any expansion of a BESS that causes the facility to exceed the applicable capacity threshold shall require compliance with the standards applicable to the resulting classification before the expanded portion is placed into operation.

(D) MEDIUM-SCALE BATTERY ENERGY STORAGE SYSTEM REQUIREMENTS

In addition to the requirements of subsection (C), all Medium-Scale BESS shall comply with the following:

(1) General Standards. shall be permitted only where expressly authorized in the specified zone district and meet standards established in subsection (C)(1) of this section.

(2) Setbacks. All Medium-Scale BESS equipment must be as follows:

a. The greater of the requirements established in (C)(2) or 50 feet from all property and right-of-way lines.

(3) Fencing and Security. All BESS equipment shall be secured against unauthorized access. Security may be provided by an approved perimeter fence, a locked BESS enclosure, a locked building, or a combination thereof. Doors providing access to the BESS shall remain locked except during authorized access, maintenance, or emergency response. Where BESS equipment is located within a locked building or enclosure, the owner or operator shall provide the responding emergency agency with an approved means of emergency access, such as a Knox Box, key, access code, or other system acceptable to the responding emergency agency. Where fencing is proposed, the fencing shall:

a. Enclose the BESS equipment area;

b. Include a gate or gates sufficient to provide required emergency access;

c. Be maintained in good condition; and

d. Not obstruct required emergency access.

e. Fencing shall not be located so as to interfere with required drainage, sight distance, or emergency access.

(4) Emergency Access. BESS equipment shall be arranged so that emergency responders can reasonably approach the equipment without unnecessary obstruction from buildings, fencing, landscaping, stored materials, vehicles, or other site features. The applicant shall demonstrate on the site plan that

DRAFT

emergency responders can reasonably access the BESS equipment. The emergency access route shall:

a. Be identified on the approved site plan;

b. Remain reasonably unobstructed;

c. Provide access to the BESS equipment area; and

d. Include gates or other access-control devices that can be opened or otherwise accessed by emergency responders.

e. The access route shall comply with applicable State requirements.

(5) **Signage.** Outdoor BESS installations shall provide appropriate warning and identification signage consistent with applicable State requirements. At a minimum, an exterior sign shall identify:

a. The facility as a Battery Energy Storage System;

b. Emergency contact information for the owner or operator; and

c. Any emergency warning or hazard information required by applicable State or Federal law.

(6) **Lighting.** Lighting associated with a BESS shall be designed and located to minimize glare and light trespass onto adjoining properties and public rights-of-way. Lighting shall be directed toward the interior of the facility to the extent practicable. Illumination shall not exceed 0.5 foot-candles at any residential or agricultural property line and not 1.0 foot-candles at any industrial or commercial adjoining property.

(7) **Noise**. Sound generated by a BESS shall not exceed 55 dBA at the nearest property line adjoining a residential use or residential zoning district, as measured during operation. The Area Planning Commission or its designee may require a noise study prepared by a qualified acoustical professional to demonstrate compliance with the applicable noise standards. The study shall evaluate sound levels at the applicable property boundaries and, where appropriate, nearby sensitive land uses, under representative maximum normal operating conditions. The Zoning Administrator may require post-installation sound-level measurements when reasonably necessary to verify compliance, including when the approved noise study identifies a potential concern or a substantiated complaint is received. Measurements shall be conducted using a suitable sound-level meter and a consistent measurement protocol that accounts for operating conditions and relevant background noise. The applicant or facility owner shall be responsible for the reasonable cost of any required study or verification measurements.

DRAFT

(8) **Drainage, Containment and Release Control**. A BESS shall be designed and constructed and maintained so that stormwater runoff and liquids originating within the equipment area do not cause unreasonable adverse impacts to adjoining properties, public rights-of-way, drainage facilities, surface waters, wetlands, or groundwater. Existing drainage patterns and proposed measures for controlling drainage or liquid releases from the BESS equipment area shall be identified on the site plan where reasonably necessary to demonstrate compliance.

(9) **Maintenance**. All BESS equipment, fencing, screening, drainage facilities, access areas, and other site improvements required by this section shall be maintained in good condition throughout the operational life of the facility.

(11) **Emergency Information.** The owner or operator shall provide the local fire department or other responding emergency agency with reasonably necessary facility information, including:

a. Site location;

b. Equipment details & location;

c. SDS information;

c. Emergency contact information;

d. Means of accessing the facility; and

e. Information regarding applicable emergency isolation or shutdown procedures, where available.

Nothing herein shall require the local government to approve the technical adequacy of an emergency response plan or fire protection system.

(E) LARGE-SCALE BATTERY ENERGY STORAGE SYSTEM REQUIREMENTS

In addition to subsections (C) and (D), all Large-Scale BESS shall comply with the following:

(1) **General Standards.** shall be permitted only where expressly authorized in the specified zone district and meet standards established in subsection (C)(1) of this section.

(2) **Setbacks.** All Large-Scale BESS equipment must be as follows:

a. The greater of the requirements established in (C)(2) or seven hundred fifty (750) feet from property lines and right-of-way.

(3) **Screening.** Outdoor BESS equipment visible from a public right-of-way or adjoining property shall provide visual screening to substantially obscure the

DRAFT

battery equipment and associated mechanical equipment from ordinary ground-level view during the growing season by one or more of the following:

a. Existing vegetation;

b. Proposed landscape plantings;

b. A building or other permanent structure;

c. An opaque fence or wall;

d. Berms; or

e. A combination of such measures.

Screening shall not obstruct required emergency access or ventilation. Where landscaping is used to satisfy this section, the required planting area shall be at least ten (10) feet in width, measured from the outside edge of the security fence or wall. At least fifty percent (50%) of the required plants shall be evergreen species. Dead vegetation must be replaced

(4) Woodland Protection. No Large-Scale or Utility-Scale BESS shall be established on land where existing woodland is cleared, removed, or materially disturbed for the purpose of siting or accommodating the BESS, including associated access drives, equipment areas, or required infrastructure.

(5) Dedicated Emergency Access. A Large-Scale BESS shall provide an all-weather emergency access route from a public road or other approved access point to the BESS equipment area. The access route shall be:

a. Identified on the site plan;

b. Maintained for emergency use throughout the operational life of the facility;

c. Designed to permit emergency response vehicles to reasonably approach and maneuver within the facility; and

d. Maintained free of obstructions that would prevent emergency access.

The Area Plan Commission may require the applicant to demonstrate the adequacy of the proposed access through a site plan prepared by a qualified professional.

(6) Engineered Drainage, Containment and Release Control. Prior to approval of a Large-Scale BESS, the applicant shall submit a drainage and containment plan prepared by an appropriately qualified professional where necessary to demonstrate compliance with this section. The plan shall identify and address any discharge from the BESS equipment area to surface waters or

drainage facilities and shall demonstrate compliance with all applicable federal, state, and local stormwater and environmental requirements. The plan shall identify, as applicable:

a. Existing and proposed drainage patterns;

b. Areas contributing runoff to the BESS equipment area;

c. Proposed secondary containment or liquid-release control measures;

d. Proposed drainage control structures;

e. The anticipated capacity of containment measures;

f. The methodology used to determine required containment capacity; and

g. Spill-response plan to prevent uncontrolled discharge to adjoining property, public drainage facilities, surface waters, wetlands, or groundwater.

The Area Plan Commission may rely upon the certification of an appropriately licensed professional concerning technical calculations and design.

(7) Emergency Response Plan. Prior to approval and operation, the owner or operator of a Large-Scale BESS shall provide the responding fire department with an emergency response plan or equivalent emergency information appropriate to the facility. The emergency response information shall include, to the extent applicable:

a. Facility layout;

b. Battery type and chemistry;

c. Thermal runaway characteristics;

d. fire / explosion hazards;

e. toxic gases;

f. water requirements;

g. firefighting strategy;

h. contaminated water containment;

i. Equipment locations;

j. Emergency contact information;

k. Emergency access locations;

l. Electrical isolation or shutdown information;

m. Known hazards associated with the equipment; and

DRAFT

n. Procedures for contacting the owner, operator, or qualified technical representative during an emergency.

Nothing in this subsection shall be interpreted as requiring the Area Plan Commission to review or approve the technical adequacy of an emergency response plan where such review is assigned to another governmental authority.

(8) Fire Department Coordination. The applicant shall provide the responsible emergency response agency with facility information reasonably necessary for emergency response. The applicant shall identify the responsible emergency response agency and provide evidence of delivery of the information.

(9) Financial Assurance. Financial assurance shall be sufficient to address the reasonable anticipated cost of decommissioning, removal, site restoration, and environmental remediation associated with abandonment or catastrophic event.

a. The estimated cost of decommissioning shall be prepared by a qualified professional experienced in the removal and decommissioning of energy storage facilities and shall be subject to review and approval by the Area Plan Commission or its designee. The County/Applicable Jurisdiction may require independent verification of the estimated cost at the owner's expense. The cost estimate should include the following:

i. battery modules/cells;

ii. containers/enclosures;

iii. inverters;

iv. transformers and switchgear;

v. foundations;

vi. fencing and gates;

vii. electrical equipment;

viii. underground/aboveground collection infrastructure that must be removed;

ix. gravel/access improvements if required to be removed;

x. contaminated soil or material resulting from the facility;

xi. transportation and disposal/recycling;

xii. site grading;

xiii. revegetation;

DRAFT

xiv. professional/engineering costs reasonably necessary to complete decommissioning.

b. A financial assurance sufficient to cover the cost equal to 100% of the estimated decommissioning cost shall be provided in the form of an irrevocable letter of credit, surety bond, escrow amount, cash deposit, or other financial instrument acceptable to the planning commission. The financial assurance shall be payable to the Applicable Jurisdiction and shall remain in effect until the facility has been fully decommissioned and the site restoration requirements have been satisfied.

c. The assurance amount must be reviewed, updated, and adjusted for inflation every 5 years or upon substantial expansion, whichever comes first. The obligation to maintain financial assurance shall run with the land and shall not terminate upon sale, transfer, assignment, or other change in ownership or operation of the BESS.

(10) Abandonment. A BESS shall be considered abandoned when it has ceased operation for its authorized purpose for a continuous period of twelve (12) months, unless the owner demonstrates to the Zoning Administrator that the facility is being actively repaired, replaced, upgraded, or recommissioned. Upon abandonment, the owner shall decommission and remove the BESS and restore the site within 180 days. Failure to remove and restore the site provides the financial assurance enforceable.

(11) Decommissioning. Upon permanent cessation of operation, the owner or operator shall remove BESS equipment and associated facilities within a reasonable period established by the applicable approval. The site shall be restored in accordance with the approved decommissioning plan and applicable requirements of this Chapter.

(12) Construction Transportation & Road Protection Plan. Where applicable, the development shall comply with the requirements of Section 80.32(D), Construction Transportation & Road Protection Standards.

(13) Third-Party Technical Review. When plans, studies, reports or other technical materials prepared by qualified professionals are required for an applicant for a Large-Scale or Utility-Scale BESS, when reasonably necessary to evaluate compliance with this Section, the reviewing authority may retain an independent qualified professional to review materials submitted by the applicant. The applicant shall be responsible for the reasonable and documented cost of the independent review, subject to the applicable fee schedule and procedures established by the jurisdiction. The jurisdiction may require an advance deposit sufficient to cover anticipated review costs. If the deposit is insufficient, the applicant may be required to replenish it before

DRAFT

additional review is undertaken. Any unused balance shall be refunded to the applicant. Technical review fees shall be limited to costs reasonably related to reviewing the application and shall not include unrelated administrative expenses. The reviewing authority shall retain responsibility for all decisions required under this Chapter. Independent technical review shall be advisory and shall not substitute for the findings or determinations required of the reviewing authority.

(F) UTILITY-SCALE BATTERY ENERGY STORAGE SYSTEM REQUIREMENTS

(1) **General Standards.** Must meet the same general standards as a large-scale BESS identified in §80.50(E). Utility-Scale BESS shall comply with all applicable requirements of IC 22-14-8 and other applicable State law. The Indiana Department of Homeland Security is the State authority responsible for the installation and expansion approval of Utility-Scale BESS as provided by State law.

(2) **Local Land Use Authority**. Nothing in this section shall be construed to limit the authority of the Area Plan Commission or other local governmental entity to exercise zoning, land use, planning, or other authority otherwise permitted by law.

(4) **State Fire and Life-Safety Requirements.** Technical requirements concerning fire detection, fire suppression, thermal runaway mitigation, fire protection systems, electrical safety, and other matters subject to State regulation shall comply with applicable State law and standards administered by the appropriate State authority. The Area Plan Commission shall not independently establish or enforce technical fire protection requirements that are reserved to the State. Where required by applicable State law, the applicant shall provide evidence of State approval or other required State authorization before commencement of the activity for which such approval is required. Nothing herein shall be construed to alter the order, scope, or requirements of State approvals. Such documentation shall be maintained with the local zoning record. Nothing in this subsection shall be construed to require the Area Plan Commission to independently verify technical compliance with requirements administered by the State.

(6) **Emergency Response Plans.** Where State law requires a Utility-Scale BESS operator to provide an emergency response plan to responding fire departments or offer training, compliance shall be governed by the applicable State requirements. The Area Plan Commission may require the applicant to identify the responding fire department and demonstrate that the department has been provided with information reasonably necessary for local emergency response, provided such requirement does not conflict with

DRAFT

State law. Indiana currently requires operators of covered utility-scale BESS to provide responding fire departments copies of emergency response plans and offer annual training.

(7) Containment and Firewater Management. Technical requirements concerning containment, fire suppression, firewater management, thermal runaway, or other fire-safety measures for Utility-Scale BESS shall be governed by applicable State requirements and standards administered by the appropriate State authority. Local requirements concerning stormwater, drainage, protection of adjoining property, and prevention of uncontrolled discharge may be imposed to the extent otherwise authorized by law.

(8) Conflict with State Law. Nothing in this chapter shall be construed to limit the authority under IC 36-7-4 to regulate the location, site development, setbacks, screening, access, drainage, and other lawful land-use impacts of a battery energy storage system. If any provision of this section is determined to conflict with a provision of State law governing Utility-Scale BESS, the State law shall control to the extent of the conflict, and the remaining provisions of this section shall remain in effect. Nothing in this chapter shall be construed to:

a. require an approval, permit, license, or fee prohibited by IC 22-14-8, as amended;

b. regulate the ownership or operation of a utility scale battery energy storage system in a manner prohibited by State law;

c. regulate the technical fire, building, electrical, or life-safety characteristics of a utility scale battery energy storage system where such authority is vested in the State of Indiana; or

d. otherwise conflict with the authority of the Indiana Department of Homeland Security or another state agency.

Amend §80.32 Supplementary Business Standards to add the following subsection

(D) Construction Transportation Plan & Road Protection Standards.

(1) Applicability. The requirements of this chapter shall apply to any development that is reasonably anticipated to generate substantial construction traffic, including construction activity involving substantial heavy truck trips per day, oversized or overweight vehicles, extensive hauling of fill or aggregate, or other construction-related traffic reasonably determined by the Administrator to have the potential to adversely affect the condition or safe operation of a public road.

DRAFT

Prior to approval of a building permit, improvement-location permit, or commencement of such construction, the applicant shall submit a Transportation and Road Protection Plan for review and approval by the County Engineer and each other affected road authority.

(2) Required contents. The Transportation and Road Protection Plan shall include, at a minimum:

a. Construction traffic routes. A map identifying all public roads, private roads, and access points proposed to be used for the delivery of equipment, materials, construction vehicles, oversized loads, and heavy-haul vehicles.

b. Road inventory. Identification of the existing pavement type, apparent condition, width, bridges, culverts, drainage structures, shoulders, intersections, and posted or seasonal weight restrictions along each proposed route.

c. Traffic estimates. Estimated construction traffic by phase, including: Daily and peak daily vehicle trips; Passenger vehicles and worker vehicles; Delivery trucks; Tractor-trailers; Concrete trucks; Cranes and other heavy equipment; Oversized or overweight loads; and Anticipated delivery dates and time periods.

d. Load Information. The approximate number, dimensions, axle configuration, gross vehicle weight, and anticipated route of each oversized or overweight delivery, including battery containers, transformers, switchgear, generators, and other major equipment.

e. Road adequacy. An evaluation prepared by a qualified professional engineer identifying whether the proposed routes, bridges, culverts, shoulders, intersections, and access points are adequate for the anticipated construction traffic.

f. Required improvements. Identification of all temporary or permanent improvements needed to accommodate construction traffic, including road widening, pavement strengthening, aggregate placement, intersection improvements, culvert improvements, bridge improvements, shoulder stabilization, drainage improvements, turning-radius improvements, and access-drive improvements.

g. Traffic-control measures. Proposed measures to protect the traveling public and minimize disruption, including signage, flaggers, temporary traffic control, delivery scheduling, school-bus coordination, agricultural-traffic coordination, and procedures for maintaining emergency access.

DRAFT

h. Staging and parking. Identification of on-site locations for equipment staging, worker parking, material storage, truck queuing, and loading. Construction staging, truck queuing, and equipment parking shall not occur on a maintained public road unless specifically authorized in writing by the applicable road authority.

i. Road maintenance. A schedule and method for maintaining the approved haul routes during construction, including dust control, mud and debris removal, pothole repair, shoulder repair, drainage maintenance, and prompt correction of unsafe conditions.

j. Restoration plan. A plan for repairing and restoring public roads, rights-of-way, drainage structures, and other public infrastructure damaged or degraded by project-related traffic or construction activities.

(3) Road- Use Agreement. Prior to commencement of construction, the facility owner or applicant shall enter into a written Road-Use Agreement with the County and each affected road authority. The agreement shall be in a form acceptable to the applicable road authority and shall include, at a minimum:

a. The approved construction traffic routes;

b. The approved construction schedule;

c. The types and maximum weights of vehicles and loads;

d. Required permits for oversized or overweight vehicles;

e. Required roadway or drainage improvements;

f. Inspection and monitoring responsibilities;

g. Procedures for reporting and correcting road damage;

h. Responsibility for maintenance during construction;

i. Responsibility for restoration after construction;

j. Insurance and indemnification provisions, as permitted by law;

k. Financial assurance for required improvements and restoration; and

l. Procedures for resolving disputes regarding damage or restoration.

(4) Road Condition Documentation.

Before construction traffic begins, the applicant shall retain a qualified professional engineer or other professional acceptable to the County Engineer to document the condition of each approved public-road route and affected public infrastructure. Documentation shall include photographs, video,

DRAFT

written observations, pavement-condition information, and identification of existing defects.

Within thirty (30) days after substantial completion of construction, or within another period approved by the County Engineer due to weather or seasonal conditions, the applicant shall complete a post-construction inspection using the same routes and substantially similar documentation methods.

The applicant shall be responsible for repairing damage to public roads or infrastructure that is demonstrated by the County Engineer or applicable road authority to have resulted from project-related construction traffic.

(5) Financial Assurance. Before construction begins, the applicant shall provide financial assurance in a form acceptable to the County and the applicable road authority to secure:

a. Required roadway and drainage improvements;

b. Repair of damage caused by project-related construction traffic;

c. Restoration of temporary access or staging areas;

d. Removal of construction debris from public rights-of-way; and

e. Completion of obligations under the Road-Use Agreement.

The amount of financial assurance shall be based on an estimate prepared by a qualified professional engineer and approved by the County Engineer. The estimate may consider the length and condition of the haul routes, anticipated traffic, maximum vehicle weights, bridges and culverts, required improvements, and the cost of restoration.

CERTIFICATION

The foregoing proposed zoning ordinance amendment was approved by the Ripley County Area Planning Commission on _____, 2026, and is hereby certified to the participating legislative bodies pursuant to IC 36-7-4-605 and IC 36-7-4-607.

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