ORDINANCE # 3-26

AN AMENDMENT TO THE UNIFIED ZONING ORDINANCE OF VIGO COUNTY, INDIANA TO ADD BATTERY ENERGY STORAGE SYSTEMS AS A SPECIAL EXCEPTION

WHEREAS, Indiana Code 22-14-8, *et seq* establishes statewide safety, installation, and operational requirements for a Battery Energy Storage System (BESS) in Indiana; and

WHEREAS, Indiana Code 36-7-4, *et seq* authorizes Indiana counties to adopt zoning ordinances for their jurisdiction and amend the text of an adopted zoning ordinance; and

WHEREAS, Vigo County, Indiana adopted the Unified Zoning Ordinance of Vigo County, Indiana; and

WHEREAS, Vigo County, Indiana intends to establish a process for approving the use of land in Vigo County, Indiana for BESS projects that are not inconsistent with federal and state law; and

WHEREAS, amending the Unified Zoning Ordinance of Vigo County, Indiana to provide BESS as a special exception subject to the approval of the Vigo County Area Board of Zoning Appeals is appropriate to avoid and/or minimize the risks, dangers, and inconvenience to health, safety and general welfare of the citizens of Vigo County, Indiana:

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF VIGO, INDIANA AS FOLLOWS:

SECTION 1: The Unified Zoning Ordinance of Vigo County, Indiana is amended as follows:

A. **Section 2B** The list of Definitions is amended by adding the following definitions:

BATTERY ENERGY STORAGE SYSTEM (BESS): electrochemical devices that charge or collect energy from the grid or a generation facility, store that energy, and then discharge that energy later to provide electricity or other grid services. A BESS includes battery cells, thermal, battery, and energy management systems, inverters, and related control and safety components. This definition includes the physical site and all associated infrastructure necessary for the installation, operation, and maintenance of one or more BESS, including but not limited to enclosures, electrical equipment, access roads, substations, interconnection facilities, and supporting structures.

NON-PARTICPATING PROPERTY: real property that is not subject to any agreements with a BESS applicant, owner, or operator.

OCCUPIED STRUCTURE: an existing permanent building or facility where people regularly reside, conduct business, or gather, including but not limited to residential homes, apartments, hotels, motels, schools, hospitals, places of worship, commercial establishments, and other structures that are in regular use by the public.

B. **Section 8.01 Agricultural District (A-1)** Special Exception Uses are amended by adding the following use to the list of Special Exception Uses in the A-1 District

Battery Energy Storage System (BESS)

C. **Section 9.03 Regional Commercial District (C-3)** Special Exception Uses are amended by adding the following use to the list of Special Exception Uses in the C-3 District

Battery Energy Storage System (BESS)

D. **Section 9.04 Commercial Office District (C-4)** Special Exception Uses are amended by adding the following use to the list of Special Exception Uses in the C-4 District

Battery Energy Storage Systems (BESS)

E. **Section 9.05 Commercial Entertainment District (C-5)** Special Exception Uses are amended by adding the following use to the list of Special Exception Uses in the C-5 District

Battery Energy Storage System (BESS)

F. **Section 9.06 Highway Commercial District (C-6)** Special Exception Uses are amended by adding the following use to the list of Special Exception Uses in the C-6 District

Battery Energy Storage System (BESS)

G. **Section 9.07 General Commercial District (C-7)** Special Exception Uses are amended by adding the following use to the list of Special Exception Uses in the C-7 District

Battery Energy Storage System (BESS)

H. **Section 10.01 Light Industrial District (M-1)** Special Exception Uses are amended by adding the following use to the list of Special Exception Uses in the M-1 District

Battery Energy Storage System (BESS)

I. **Section 10.02 Heavy Industrial District (M-2)** Special Exception Uses are amended by adding the following use to the list of Special Exception Uses in the M-2 District

Battery Energy Storage System (BESS)

J. **Section 18 Special Exception Regulations** The following additional requirements are added for Battery Energy Storage System (BESS):

H. Additional Requirements for a Battery Energy Storage System (BESS).

In addition to the requirements of this Section for the grant of a Special Exception, a Special Exception for the placement of a Battery Energy Storage System (BESS) shall also comply with the following:

1. The BESS layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the National Fire Protection Association (NFPA) and the National Electrical Code (NEC), including applicable local and state standards.

2. The BESS shall at all times conform with Indiana Code 22-14-8, *et seq* and all applicable federal, state, and local laws.

3. The BESS shall comply with all applicable federal, state, and local environmental laws.

4. The BESS shall not be located, constructed, or installed within any identified floodway, floodway fringe or within a floodplain for which the floodway limits have not yet been determined.

    a. If a utility scale battery energy storage system is located less than one-half (1/2) mile from the nearest one hundred (100) year flood plain, as determined by the most recently issued IDNR flood maps, all of the system's equipment must be located at least two (2) feet above the one hundred (100) year frequency flood elevation.

5. Upon completion of installation, the BESS shall be maintained in good working conditions. Failure of the owner and/or operator to maintain the BESS in good working conditions is grounds for appropriate enforcement actions.

6. Development Standards for Battery Energy Storage System (BESS)
    a. Setbacks.

        i. The BESS, including any security fencing necessary, shall have a minimum setback of 100 feet from any public right-of-way.

        ii. The BESS, including any security fencing necessary, shall have a minimum setback of 150 feet from any non-participating property line.

        iii. The BESS, including any security fencing necessary, shall have a minimum setback of 300 feet from any occupied structure.

    b. Security and Screening

        i. The BESS shall be enclosed by perimeter security fencing or another county approved barrier with a minimum height of at least 7 feet. The use of barbed wire or razor wire is permitted.

c. Lighting Requirements

    i. If lighting is required, any lighting used at a BESS shall implement dark sky friendly lighting solutions designed to minimize upward light spill.

d. Auditory Requirements

    i. The average noise generated from the BESS components and associated ancillary equipment shall be no greater than sixty (60) decibels measured at the nearest non-participating property line or forty-five (45) measured at the nearest occupied structure.

e. Height Requirements

    i. The BESS shall not exceed fifteen (15) feet in height. The height is to be determined from the ground to the top of the equipment.

f. Utility Lines

    i. All on-site utility lines shall be placed underground to the extend feasible, except for the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles with new easements and right-of-way as required.

g. Signage and Access Roads

    i. Access roads to the BESS shall be designed in consultation with the county and shall be maintained to enable year-round emergency vehicle access.

    ii. The BESS shall maintain clearly visible signage, including warning signs and contact information in case of emergency.

7. A BESS may be repaired or augmented without additional review for a Special Exception Use by the Board, provided the augmentation remains in compliance with the requirements of a Special Exception Use for a BESS outlined in this Section. The Vigo County Area Planning Department must receive notification at least ninety (90) days prior to the commencement of augmentation activities at the site and shall submit an updated site plan that identifies any changes resulting from augmentation.

8. The Vigo County Area Planning Department shall receive notification within sixty (60) days of any ownership change or management change and their contact information.

9. An emergency response plan and training plan for the local fire departments and emergency personnel are required and must meet state codes prior to commencing operation.

10. Decommissioning.
    a. Prior to commencing operations, the BESS applicant, owner, and/or operator shall submit a comprehensive decommissioning plan to the county. The plan shall include the following:
        i. The anticipated life of the BESS and the anticipated method by which the project will be decommissioned.
        ii. A description of which above-grade and below-grade improvements will be removed, retained, or restored to substantially the same condition as the property was in prior to construction.
        iii. A decommissioning cost estimate prepared by a professional engineer licensed by the State of Indiana at the expense of the BESS applicant, owner, and/or operator. The estimate must include both a cost estimate with salvage value and without salvage value, and it shall be updated every five years until decommissioning is complete.
    b. Prior to commencing operations, the BESS applicant, owner, and/or operator shall provide an operational financial assurance equal to the decommissioning cost estimate minus the salvage value. Such financial assurance may take the form of a bond, letter of credit, or other security acceptable to the County. The financial assurance shall name Vigo County as the beneficiary and remain in effect until decommissioning is complete.

11. Abandonment.
    a. If a BESS ceases operation for twenty-four (24) consecutive months the facility will be deemed abandoned and the BESS applicant, owner, and/or operator shall implement the decommissioning plan at its expense within 180 days of being deemed abandoned.

SECTION 2: If any section of this Ordinance shall be held invalid by a court of competent jurisdiction, its invalidity shall not affect any other provisions of the Ordinance that can be given effect without the invalid provision, and for this purpose, the provisions of this Ordinance are hereby declared to be severable.

SECTION 3: That this amendment should be in full force and effect upon its adoption by the Board of Commissioners of the County of Vigo.

ADOPTED this 10th day of November, 2026

VIGO COUNTY COMMISSIONERS

Mark Clinkenbeard

Chris Switzer

Mike Morris

ATTEST:

Larry T. Hutchings II, Vigo County Auditor