

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado held in Hugo, Colorado on August 6, 2024, there were present:

Steve Burgess, Chairman	Present
Wayne Ewing, Vice Chairman	Present
Douglas D. Stone, Commissioner	Present
Stan Kimble, County Attorney	Present
Mindy Dutro, Acting Clerk of the Board	Present
Jacob Piper, County Administrator	Present

when the following proceedings, among others, were had and done, to-wit:

RESOLUTION #1127 It was moved by Commissioner EWING and seconded by Commissioner STONE to adopt the following resolution:

A RESOLUTION TO AMEND THE LINCOLN COUNTY ZONING RESOLUTION BY CREATING ARTICLE 3, USE BY SPECIAL REVIEW PROCEDURES, DIVISION 2, APPROVAL STANDARDS AND CRITERIA FOR USES BY SPECIAL REVIEW, SECTION 3-220, ADDITIONAL STANDARDS, I. BATTERY ENERGY STORAGE SYSTEM (BESS) REGULATIONS.

WHEREAS, Lincoln County has experienced and continues to experience substantial growth of the renewable energy industry in the unincorporated portions of the County; and

WHEREAS, the Board of County Commissioners, hereinafter referred to as the “Board,” has previously determined that regulations for wind energy plants, solar power plants, and accessory facilities, be set in place for the benefit of the citizens of the County, and has adopted such regulations; and

WHEREAS, the Board has further determined that regulations to guard the safety and well-being of the citizens of the County should be put in place to regulate Battery Energy Storage Systems, hereinafter referred to as “BESS”:

NOW THEREFORE, BE IT RESOLVED BY THE LINCOLN COUNTY BOARD OF COUNTY COMMISSIONERS:

1. Upon adoption of this Resolution, a new section shall be added under Article 3, Use by Special Review Procedures, Division 2, Approval Standards and Criteria for Uses by Special Review, Section 3-220, Additional Standards, I, Battery Energy Storage System (BESS) Regulations, as follows:

I. Standards for Regulation of the Construction and Operation of Battery Energy Storage Systems (BESS) and Facilities. The purpose of this section is to provide for the regulation of the application for, standards for, review criteria and Process, Decommissioning Requirements, and operation of Battery Energy Storage systems in Lincoln County, subject to reasonable conditions that will protect the environment, and the public health, safety, and welfare of county residents and other interested parties.

1. Definitions Applicable to Battery Energy Storage Systems and Facilities.

A. Battery Energy Storage System (BESS): A rechargeable energy storage system consisting of batteries, battery chargers, controls, power condition systems and associated electrical equipment designed to provide electrical power to a building or to provide electrical grid-related services. Battery energy storage systems designed and operated for a single residential household shall not be included in this definition.

2. Submittal Requirements.

A. The Application shall be accompanied by an application fee of Five Hundred Dollars (\$500.00)

B. In addition to any submittal documents required by the Zoning Ordinance, for the applicable use permit, except as modified by these BESS Regulations, an application for a BESS shall contain the following:

1. Change Conditions Narrative. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.

2. Electrical Diagram. A one or three line electrical diagram detailing the BESS layout, associated components, and electrical interconnection methods, with all National Electrical Safety Code compliant disconnects and over current devices.

3. Specification Sheet. A preliminary equipment specification sheet that documents the proposed BESS components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of the building permit.

4. Contact Information. Name, address, and contact information of proposed or potential system installer and the owner and or operator of the BESS. Such information of the final system installer shall be submitted prior to the issuance of the building permit.
5. Narrative. A narrative providing an explanation of the project, the above grade and below grade infrastructure, the type of battery, temperature control, if applicable, for the BESS system, identified environmental impacts and mitigation.
6. Maintenance Plan. A system and property maintenance plan describing continuing BESS maintenance and property upkeep during the operation of the BESS.
7. Drainage Plan. A drainage plan and runoff containment plan shall be produced prior to any construction, regardless of the square footage of the BESS.
8. Fire Mitigation Plan. A fire mitigation plan including identification of the nearest water source for fire suppression or written confirmation from the local fire department or special fire district, whichever is applicable, with jurisdiction over the property stating the site has been evaluated for fire risks and sufficiently mitigated any such risk. The applicant shall provide a written agreement between the applicant and the applicable special fire district detailing the matters set forth herein. The Fire Mitigation Plan shall also require the placement of a twenty thousand (20,000) gallon water storage container, located at an agreed place, so as to provide ready and available water in the event the fire department of special fire district requires the water for fire suppression.
9. Decommissioning Plan. A decommissioning plan in accordance with Section 5 below.
10. Emergency Operation Plan. An emergency operation plan including the following:
 - a. 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.

- b. Procedures for inspection and testing of associated alarms, interlocks, and controls.
 - c. Procedures to be followed in response to notifications from the BESS management 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.
 - d. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department or district, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
 - e. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
 - f. Procedures for dealing with BESS equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged BESS equipment from the facility.
- C. Application for a BESS that are part of a solar collector facility and submitted concurrently with an application for the solar collector facility may be processed concurrently.

3. **Battery Energy Storage System (BESS) Standards.**

- A. BESS shall comply with all applicable requirements of the underlying zoned district and the Accessory uses and Structures requirements set forth in the Lincoln County Zoning Resolution.
- B. All BESS, including all mechanical equipment, shall be enclosed by a minimum of a six (6) foot tall fence with a self-locking gate to prevent unauthorized access, unless housed in a building dedicated to the BESS. No fencing may interfere with any ventilation or exhaust ports.

- C. All BESS, their components, and associated ancillary equipment shall be placed with required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with applicable electric code, as adopted by the State of Colorado.
- D. All BESS, their components, and associated ancillary equipment shall be located a minimum of One Thousand feet (1,000') from any occupied structure or water well, unless the owner of the property waives, in writing, such setback requirement.

4. **Review Criteria and Process**

- A. In addition to any review criteria imposed by the Zoning Ordinance for the applicable permit, the County shall consider whether the application complies with the requirements of these BESS Regulations.
- B. All applications under these BESS Regulations shall be processed pursuant to the procedures applicable to the type of permit applied for and required.
- C. If the County deems it necessary to have a professional consultant review the applications and accompanying documentation, or any other aspect of the application, the applicant shall reimburse the County in full for the cost of the consultation.

5. **Decommissioning Requirements for BESS**

- A. General Requirements.
 - 1. The Lincoln County Landfill, and/or any private property throughout Lincoln County will not accept or receive any decommissioned BESS equipment.
 - 2. If a BESS ceases to perform its originally intended function for more than twelve (12) consecutive months, the permit holder and / or property owner shall remove the system, foundation, and associated equipment and facilities by no later than One Hundred Eighty (180) days after the end of the twelve-month period.

3. If permit holder and / or property owner notifies the County of the termination of operations, decommissioning shall be completed no less than One Hundred Eighty (180) days from the date of the notice.
 4. Upon removal of a BESS, the property shall be restored to the condition prior to the development of the system.
- B. Decommissioning Plan. The decommissioning plan shall include:
1. Contact information for all parties involved (e.g., landowner, developer, utilities, etc.);
 2. A detailed plan for the removal of all systems and equipment from the site, including provisions for the removal of structures, debris, and cabling, including those below the soil surface to depths agreed to in landowner agreements or down twenty-four (24) inches.
 3. A cost estimate for the decommissioning prepared by a professional engineer or contractor with expertise in related decommissioning projects.
 4. Roles and responsibilities of each party involved in the decommissioning.
- C. Decommissioning Bond or Letter of Credit. The decommissioning cost, minus the salvage value of the system, foundation, and associated equipment and facilities, shall be made by cash, surety bond, or irrevocable letter of credit at Twenty-Five percent (25%) before construction commences and the remaining Seventy-Five percent (75%) prior to the twelfth anniversary of the commencement of construction of the system.
- D. If decommissioning does not proceed in accordance with the decommissioning plan, the County shall have the right, but not the requirement, to enter the property and cause the appropriate abandonment and decommissioning measures as determined by the approved decommissioning plan to be carried out.

6. **Ownership Changes**

If the ownership of BESS changes or the owner of the property changes, the use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the use permit and the decommissioning plan. A new owner or operator of the BESS shall notify the County PLANNING Department and the Board of County Commissioners, in writing, of such change in ownership or operator within thirty (30) days of the ownership change. The use permit and all other local approvals for the BESS will be voided if a new owner or operator fails to provide written notification as provided herein in the required timeframe. Reinstatement of a void use permit will be subject to the same review and approval processes for a new application.

7. **Approval Time Frame and Abandonment**

The use permit for a BESS shall be valid for a period of one (1) year from the date of approval. The owner and / or operator may seek an extension of the approval period from the Board of Commissioners by demonstrating a need for an extension and filing an application with the County Commissioners. Each renewal application shall be accompanied by the appropriate fee, as established by the Board of County Commissioners. Requested renewal may be in one (1) year extensions, not to exceed a total of three (3) years. If the owner and or operator fails to achieve substantial construction and installation of the BESS within the approved period, including any extensions, the approval shall expire, and a new application shall be required. The applicant shall be responsible to apply for and obtain any necessary extensions for any building permit issued for the BESS.

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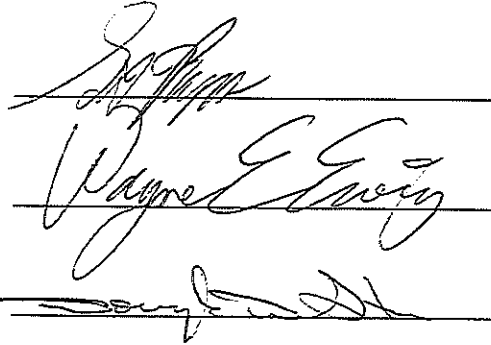
Upon roll call the vote was:

Commissioner Stone, Yes; Commissioner Ewing, Yes; Commissioner Burgess, Yes.

The Chairman declared the motion carried and so ordered.

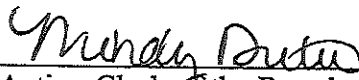
Board of County Commissioners

Of Lincoln County



The image shows three handwritten signatures, each written over a horizontal line. The signatures are in cursive and appear to be those of the Board of County Commissioners.

Attest:



Acting Clerk of the Board