

**Ordinance #2024-01.** Title 10.00. An Ordinance Adopting Amendments to Title 10.11.00. Light Industrial Zone East., adding #9. Battery Energy Storage Systems to the list of Conditional Uses in Section 10.11.210.L., and also amending Title 10.17.00. Conditional Uses., adding #10. Battery Energy Storage Systems to the list in Section 10.17.100.A; and adding K. Minimum Standards for Battery Energy Storage Systems to Section 10.17.100.

**Dated April 11, 2024**

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Document Control Changes: Created: April 11, 2024.

WHEREAS, the Planning Commission held public hearings on November 1, 2023, February 7, 2024, regarding a proposed amendment to Title 10, Section 10.11.00; adding Light Industrial Zone East; adding #9-Battery Energy Storage Systems to the list of conditional uses in Section 10.11.210.L. and also amending Title 10.17.00. Conditional Uses., adding #10. Battery Energy Storage Systems, to the list in Section 10.17.100.A; and adding K. Minimum Standards for Battery Energy Storage Systems., to Section 10.17.100;

WHEREAS, the Fairfield Town Council deems it to be in the best interest of Fairfield Town to amend the Fairfield Town Code, Title 10.11.00., Light Industrial Zone East; adding #9-Battery Energy Storage Systems to the list of conditional uses in Section 10.11.210.L. and also amending Title 10.17.00. Conditional Uses., adding #10. Battery Energy Storage Systems, to the list in Section 10.17.100.A; and adding K. Minimum Standards for Battery Energy Storage Systems., to Section 10.17.100;

Whereas, the Fairfield Town Council has reviewed the proposed amendment to the Fairfield Town Code:

NOW THEREFORE, be it ordained by the Town Council of Fairfield Town, in the State of Utah, that certain sections of Title 10 of the Town Code be amended as follows:

Add:

10.11.210.L.9. Battery Energy Storage Systems., to the list of approved conditional uses in the Light Industrial East Zone.

Add:

Section 10.17.100.A.10. Battery Energy Storage Systems, to the list of approved conditional uses.

Add:

Section 10.17.100 K.- Minimum Standards for Battery Energy Storage Systems.

1. Battery Energy Storage Systems. The purpose of this chapter is to establish the minimum requirements and regulations for the placement, construction, modification and decommissioning of Battery Energy Storage Systems within Fairfield Town (the "Town"), and issuing a conditional use permit subject to reasonable conditions that promote and protect the public health, safety, and welfare of the Town and its residents, by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

- a. To provide a regulatory scheme for the designation of properties suitable for the location, construction, and operation of Battery Energy Storage Systems;
- b. To ensure compatible land uses in the vicinity of the areas by Battery Energy Storage Systems;
- c. To mitigate the impacts of Battery Energy Storage Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources; and
- d. To create synergy between Battery Energy Storage System development and other goals of the Town pursuant to its Master Plan.

2. Definitions. For the purpose of this chapter, the following words and terms shall have the meaning ascribed to them unless such definition is inconsistent with the manifest intent or contrary to the context of the language of the ordinance.

**Abandoned Battery Energy Storage System.** Means any Battery Energy Storage System that remains nonfunctional or inoperative, meaning it is not being used or is not maintained in compliance with the terms of an approved conditional use permit for a continuous period of one hundred eighty (180) days. A Battery Energy Storage System that is nonfunctional or inoperative for any period of time as a result of a force majeure event, any maintenance, repair, or any other periods of nonuse that are planned or scheduled by the owner or operator for which advance notice is provided to the Town shall not be deemed abandoned for purposes of this ordinance.

**ANSI.** Means American National Standards Institute.

**Battery(ies).** Means a single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products, mobile applications or for household purposes are excluded from these requirements.

**Battery Energy Storage Management System.** Means a control system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

**Battery Energy Storage System.** Means one or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A Battery Energy Storage System is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

1. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology; and
2. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600 kWh or are composed of more than one storage battery technology, which may be located outdoors in a cabinet, container, or which may be located outdoors, in a cabinet, container, or enclosed area.

**Cell.** Means the basic electrochemical unit, characterized by an anode and a

cathode, used to receive, store, and deliver electrical energy.

**Commissioning.** Means a systematic process that provides documented confirmation that a Battery Energy Storage System functions according to the intended design criteria and complies with applicable code requirements.

**Fire Code.** Means the Utah Fire Code Act Title 15A Chapter 5 and Building Code adopted as currently in effect and as hereafter amended from time to time.

**Nationally Recognized Testing Laboratory (NRTL).** Means the U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

**NEC.** Means National Electric Code.

**NFPA.** Means National Fire Protection Association.

**Uniform Code.** Means the Utah Fire Code Act 15A Building Code adopted as currently in effect and as hereafter amended from time to time.

### 3. Applicability.

- a. The requirements of this section shall apply to all Battery Energy Storage Systems permitted, installed, or modified in Fairfield Town after the effective date of this section, excluding general maintenance and repair of such facilities; and
- b. Unless approved as part of an existing conditional use permit, modifications to, retrofits or replacements of an existing Battery Energy Storage System that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this code and shall require the issuance of a new conditional use permit or approval by the Planning Commission of an amendment to an existing conditional use permit that complies with the requirements of this chapter.

### 4. General Requirements.

- a. A building permit and an electrical permit shall be required for installation of all Battery Energy Storage Systems;
- b. Issuance of permits and approvals by the Planning Commission shall include review of applicable state and federal environmental laws and implementing regulations; and
- c. All Battery Energy Storage Systems and all other buildings or structures that (1) contain or are otherwise associated with a Battery Energy Storage System and (2) are subject to the Uniform Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code and other applicable codes, including the Town Code.

### 5. Permitting Requirements for Tier 1 Battery Energy Storage Systems. Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Uniform Code and the Fire Code, and exempt from site plan review.

6. Permitting Requirements for Tier 2 Battery Energy Storage Systems. Tier 2 Battery Energy Storage Systems are permitted through the issuance of a Conditional Use Permit only within the Light Industrial East Zone, and shall be subject to the Uniform Code, the Fire Code, and the site plan application requirements set forth in this section. Applications for a Conditional Use Permit for the installation of Tier 2 Battery Energy Storage System shall be:

- a. Reviewed by the Planning Commission for completeness. An application shall be complete when it addresses all matters listed in this section including, but not limited to:
  - i. Compliance with all applicable provisions of the Uniform Code, the Fire Code, and all other applicable codes;
  - ii. Applicants shall be advised within ten (10) business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review;
  - iii. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation of any poles, with new easements and rights-of-way;
  - iv. Project description. A narrative identifying the applicant, owner and operator, and describing the proposed Tier 2 Battery Energy Storage System, including a detailed overview of the project and its location; the approximate estimated rated capacity of the Tier 2 Battery Energy Storage System; the approximate number, representative types and expected footprint of solar equipment to be used or constructed; if applicable and a description of any ancillary equipment, buildings, and structures, if applicable; an estimated construction schedule and project life;
  - v. Site and development plans. Site and development plans. For a Tier 2 Battery Energy Storage System requiring a Conditional Use Permit, shall include the following information:
    - (a) Property lines, including roads, for the project site;
    - (b) Property lines and setback lines;
    - (c) Existing and proposed buildings and structures;
    - (d) Existing and proposed access roads, drives, turnout locations, parking; and
    - (e) Any other physical features, not mentioned above.
  - vi. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation, or structures;
  - vii. A single line electrical diagram detailing the Battery Energy Storage System layout, associated components, and electrical interconnection methods, with



all National Electrical Code compliant disconnects and overcurrent devices;

- viii. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that is to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit;
- ix. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Battery Energy Storage System. Such information of the final system installer shall be submitted prior to the issuance of building permit;
- x. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Battery Energy Storage System;
- xi. Zoning district designation for the parcel(s) of land comprising the project site;
- xii. Commissioning Plan. A commissioning plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Battery Energy Storage System commissioning shall be conducted by a Utah State Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to Building Department prior to final inspection and approval and maintained at an approved on-site location;
- xiii. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code;
- xix. Operation and Maintenance Manual. Such plan shall describe continuing Battery Energy Storage System maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code;
- xx. Erosion and sediment control and stormwater management plans and to such standards as may be established by the Planning Commission;
- xxi. Prior to the issuance of the building permit but not required as part of the application, engineering documents must be signed and sealed by a Utah State

Licensed Professional Engineer;

- xxii. Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
- (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 Battery Energy Storage 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, 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 Battery Energy Storage System equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged Battery Energy Storage System equipment from the facility;
  - (g) Other procedures as determined necessary by Fairfield Town to provide for the safety of occupants, neighboring properties, and emergency responders;
  - (h) Procedures and schedules for conducting drills of these procedures; and
  - (i) Fencing or other methods of ensuring public safety.
- xxii. Areas of wildlife habitat and migration corridors and areas of historic, archeological, and cultural resources within one-quarter mile of the Battery

Energy Storage System;

- xxiii. Any floodplains or wetlands;
- xxiv. Additional information may be required, as determined by Town officials or staff, such as a scaled elevation view and other supporting drawings, photographs of the proposed Site, photos or other realistic simulations or modeling of the project, coverage map, and additional information that may be necessary for a technical review of the proposal;
- xxv. Documentation of the Right to use the Site for the Proposed Project. Documentation shall include proof of ownership or control over the site or legal proof of the owner/operator's right to use the site in the manner requested. The applicant may redact sensitive financial or confidential business information from the documentation provided, so long as doing so does not prevent Town officials or staff from confirming the applicant's legal right to utilize the site for the proposed purpose. Copies of recorded deeds or memoranda of leases and easements shall be deemed sufficient for purposes of demonstrating site control under this Code;
- xxvi. Documentation of Permits or Permit Applications. As a condition of approval of any conditional use permit approved pursuant to this Code, the applicant shall be required to provide Town staff with certified copies of all necessary permits to construct and operate a Tier 2 Battery Energy Storage System prior to the issuance of a building permit;
- xxvii. Local Economic Benefits. The applicant must provide an analysis of local economic benefits, describing estimated project cost, generated taxes, the percentage of construction dollars to be spent locally, and the number of local construction and permanent jobs that are anticipated to be created as a result of the project. In addition to these factors, the analysis of local economic benefits shall include an analysis of the anticipated life of the project, the costs of decommissioning the project at the end of its useful life, an estimate of the costs of disposal of all components of the project, including the potential cleanup costs of any hazardous waste generated both by the operation of the project and as part of the decommissioning the project and disposal of the buildings, materials, components, waste, and accessory structures that exist because of the project;
- xxviii. Solid and Hazardous Waste. Include plans for the spill prevention, clean-up, and disposal of fuels, oils, and hazardous waste, as well as collection methods for all solid waste generated by the project. In addition, an application for a conditional use permit pursuant to this ordinance shall include, as part of the decommissioning plan required under section 17.100.5(K)(7) a disposal plan for all solid waste and any hazardous waste that will be generated by the implementation of the decommissioning plan. The calculation of the decommissioning costs (as defined in Section 17.100.5 (K)(7) shall include the costs to dispose of any hazardous waste generated by a proposed Tier 2 Battery Energy Storage System as part of

the decommissioning of the project. Prior to the issuance of a building permit, an applicant shall provide the Town with the Safety Data Sheets (SDS) from the manufacturer of the batteries proposed for the project, as well as the SDS for all other components of the proposed project for which SDSs exist;

- xxix. Transportation Plan for Construction and Operation Phases. Indicate by both a narrative description and a map the roads the applicant will utilize during the construction and operational phases of the project, along with their existing surfacing and condition. In addition, the application must specify any new roads and proposed upgrades or improvements needed to the existing road system to serve the project during both the construction and operation of the project. Any application must also identify all areas where modification of the topography is anticipated (cutting/filling) to construct or improve the roadways, address road improvement, restoration or maintenance needs associated with the construction, ongoing maintenance/repair, and potential dismantling and/or decommissioning of the project, provide projected traffic counts for the construction period, broken down by the general type/size of vehicles, and identify approximately how many trips will have oversized or overweight loads. If significant impacts to the Town's transportation system are anticipated, the Town may require financial guarantees to ensure proper repair/restoration of roadways or other infrastructure damaged or degraded during construction or dismantling of the project. In such cases, the "before" conditions of the roadways and other infrastructure must be documented through appropriate methods such as videos, photos, and written records, in order to provide a proper reference for restoration;
- xxx. Public Safety. Identify and address any known or suspected potential safety hazards to the Town, adjacent properties, public roadways, communities, and any other potential impacts to public safety that may be created by the proposed project;
- xxxi. Noise limitations. Include sufficient information regarding noise generated during both the construction and the operation of the proposed project so as to demonstrate compliance with Fairfield Nuisance code 5.1.00.;
- xxxii. Revegetation Areas and Methods;
- xxxiii. Dust and Erosion Control;
- xxxiv. Agreements/Easements. If the land on which the project is proposed is to be leased, rather than owned by the applicant, all property within the project boundary must be included in a recorded easement(s), lease(s), or consent agreement(s) specifying the applicable uses for the duration of the project necessary leases, easements, or other agreements between the applicant and the affected parties must be in place prior to commencing construction, unless specified otherwise by the conditional use permit;



- xxxv. Identify the anticipated points of interconnections between the Tier 2 Battery Energy Storage System and the power grid of the utility whose facilities will transmit the power stored and released by the Tier 2 Battery Energy Storage System for which a conditional use permit is being sought.
  - xxxvi. Plans to mitigate the reasonably anticipated detrimental effects the Tier 2 Battery Energy Storage System; and
  - xxxvii. Additional Impacts. In addition to the impacts identified above, the Planning Commission may require the identification, assessment, avoidance, or mitigation of any other probable and significant impacts as identified through the review process.
  - xxxviii. Applicants shall commit to following the Solar Industry Commitment to Environmental & Social Responsibility developed by the Solar Energy Industries Association by including with their application a declaration to that effect.
7. Decommissioning Plan. Submit a decommissioning plan which complies with this chapter.
- a. Standards for a Decommissioning Plan. As part of the Conditional Use Permit application, applicant must submit a Decommissioning Plan, which must include the following:
    - i. The anticipated life of the project;
    - ii. The estimated cost to remove, dismantle and dispose of the project improvements at the end of their useful life (the “decommissioning cost”), as determined by a licensed professional engineer not employed by the applicant, owner or operator, with experience in the design/construction or operation of Tier 2 Battery Energy Storage Systems; and
    - iii. The manner in which the project will be decommissioned.
      - (a) Before any conditional use permit may be issued pursuant to this Code, the Planning Commission must approve the decommissioning plan submitted in connection with the application for a conditional use permit issued pursuant to this ordinance. Any such approval must include an election by the applicant of the means by which assurance will be provided to the Town that the applicant for the conditional use permit will be able to implement its proposed decommissioning plan, chosen from the following alternatives, which shall be provided to the Town prior to the issuance of a building permit authorizing the commencement of construction of the project:
        - (i) A federally insured certificate of deposit in the name of the Town in the amount of one hundred twenty-five (125) percent of the decommissioning cost, along with a power of attorney, made in favor of the Town, allowing the Town to access the certificate of deposit in the event the applicant either fails to fulfill its decommissioning plan, declares bankruptcy, or is otherwise deemed to be insolvent by a court with competent jurisdiction;

- (ii) A cash deposit in the amount of one hundred twenty-five (125) percent of the decommissioning costs, along with a power of attorney, made in favor of the Town, in the event the applicant fails to fulfill its decommissioning plan, declares bankruptcy, or is otherwise deemed to be insolvent by a court with competent jurisdiction;
  - (iii) An irrevocable letter of credit in favor of the Town, in the amount of one hundred twenty five percent (125 %) of the decommissioning cost, along with a power of attorney, made in favor of the Town, allowing the Town to access the letter of credit in the event the applicant either fails to fulfill its decommissioning plan, declares bankruptcy, or is otherwise deemed to be insolvent by a court with competent jurisdiction; or
  - (iv) Posting a performance bond of one hundred twenty five percent (125%) of the decommissioning cost, such bond to be made in favor of the Town and allowing the Town to access the bond in the event the applicant either fails to fulfill its decommissioning plan, declares bankruptcy, or is otherwise deemed to be insolvent by a court with competent jurisdiction.
- b. If the owner of any Tier 2 Battery Energy Storage System finances the project with debt secured by the project, the owner shall ensure that the debt shall not be secured by and the lender(s) may not access the financial assurance posted by the applicant, owner, or operator to ensure the decommissioning costs of the project.
- c. In order to assure that the decommissioning cost upon which the decommissioning plan required by this section remain valid, the applicant shall prepare and present to the Town an updated decommissioning plan and decommissioning cost not later than five (5) years following the issuance of any building permit issued by the Town for any project permitted pursuant to this Code.
- d. **Unsafe or Abandoned Project.** If the Planning Commission, after the delivery of notice to the owner or operator, finds that a Tier 2 Battery Energy Storage System is in violation of any Town Code, or has been abandoned (as defined in this Code), the owner or operator shall repair the Tier 2 Battery Energy Storage System in a manner so as to assure that the project complies with all federal, state, and local safety standards, or, if the Planning Commission finds that the project has been abandoned, the owner or operator shall remove the project in accordance with the decommissioning plan. Such a finding by the Planning Commission must be made in writing and be preceded by a Public Hearing that complies with applicable Utah law. An owner or operator may appeal a finding of the Planning Commission pursuant to the Town's Land Use Appeal Ordinance within thirty (30) days of the date such a finding has been made. The Planning Commission may extend the one hundred eighty (180) day deadline set forth in the definition of an "abandoned project", if the Planning Commission finds that the owner or operator intends to repair and restore operations of the project and provides the Planning Commission with a restoration plan and timeline for completing such work. If the owner or operator fails to repair or decommission an abandoned Tier 2 Battery Energy Storage System within the time frame set forth in the decommissioning plan (or as otherwise approved by the Planning Commission as provided herein) or fails to file a

timely appeal with the Land Use Appeal Authority, this failure will be deemed as sufficient cause for the Town to utilize the security accepted by the Town pursuant to the previous section of this ordinance and to remove the project and implement the decommissioning plan prepared by the applicant. When the owner, operator or other responsible party decommissions a Tier 2 Battery Energy Storage System, that person or persons shall handle and dispose of the equipment and other project components in conformance with all state and local requirements. At such time as a Tier 2 Battery Energy Storage System is scheduled to be decommissioned at the end of the project's useful life, the owner, operator, or other responsible party shall notify the Town no less than three hundred sixty five (365) days prior to the date of decommissioning, as well as notify the Town of the schedule within which the owner, operator or other responsible party shall complete the physical removal of the Tier 2 Battery Energy Storage System. This period may be extended at the request of the owner, operator, or other responsible party, upon approval of the Town Council.

8. Standards for Location, Appearance, and Operation of a Project Site:

- a. Height Restrictions. Tier 2 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district;
- b. Setbacks. Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures;
- c. Fencing. An appropriate security/livestock fence (height and material to be established through the conditional use permit process) shall be placed around the perimeter of any Tier 2 Battery Energy Storage Systems. To the extent consistent with the Fire Code, the Knox key lock boxes and keys shall be provided at locked entrances in order to allow emergency personnel access;
- d. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a 7-foot-high 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;
- e. Signage on Tier 2 Battery Energy Storage Systems. Signage for Battery Energy Storage Systems shall be required as follows:
  - i. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the Battery Energy Storage System, any special hazards associated, the type of suppression system installed in the area of the Battery Energy Storage System, and 24-hour emergency contact information, including reach-back phone number;
  - ii. As required by the NEC, 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; and
  - iii. Signage shall be in compliance with Fairfield Town Title 10. Chapter 21. Signs
- f. Noise Requirements. Tier 2 Battery Energy Storage Systems shall comply with all

applicable Town noise ordinances or codes;

- g. Buildings and Accessory Structures. All buildings and accessory structures incorporated into any Tier 2 Battery Energy Storage Systems shall use materials, colors, and textures that are of a natural earth tones that blend the facility into the existing environment; white, gray, silver and black are acceptable 'colors' for buildings and accessory structures as it pertains to this Chapter;
- h. Landscaping. Appropriate landscaping and/or screening materials that are consistent with the fire safety compliance plans may be required to help screen a Tier 2 Battery Energy Storage System and buildings and accessory structures from major roads and neighboring residences;
- i. Lighting. Lighting shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties. Cut-off lighting as required by the Town Lighting Code may be required when determined necessary to mitigate visual impacts;
- j. Fire Protection. Tier 2 Battery Energy Storage System shall have a defensible space for fire protection with a fire protection plan which will be approved and signed off by the Fire Marshall; and
- k. Local, State and Federal Permits. Tier 2 Battery Energy Storage System shall be required to obtain all necessary permits from the Utah PSC, the Utah Department of Environmental Quality ("Utah DEQ"), including the Utah Division of Air Quality and the Utah Division of Water Quality, any applicable permits required by the Town, and all applicable Federal permits. A condition of approval of any conditional use permit for a Tier 2 Battery Energy Storage System shall require the applicant to submit reasonable documentation that the applicant has obtained all required permits to construct the Tier 2 Battery Energy Storage System from FERC, the Utah PSC, and the Utah DEQ, prior to the issuance of a building permit. The Town may withhold approval of a building permit for a Tier 2 Battery Energy Storage System if such condition is not satisfied at the time the applicant applies for such building permit.

9. Standards of Approval for a Conditional Use Permit:

- a. A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards set forth in this chapter and with all other applicable portions of the Town's land use code. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. For purposes of this chapter, the applicable standards which shall be applied in assessing any application submitted pursuant to this ordinance shall be:
  - i. Whether the proposed use meets the applicable requirements for conditional use of a Tier 2 Battery Energy Storage System in the proposed zone;
  - ii. The use is compatible, or with conditions of approval, can be

made compatible, with surrounding uses;

iii. The use is consistent with all applicable adopted Town planning policies and master plans; and

iv. The reasonably anticipated detrimental effects of the proposed use can be mitigated by the imposition of reasonable conditions.

b. Limitations on Conditional Use Approval. Subject to an extension of time granted by the Planning Commission, no conditional use permit approved pursuant to this Code shall be valid for a period longer than three (3) years, unless a building permit has been issued or complete building plans have been submitted to the Town building department within that period and the permitted project is thereafter diligently pursued to completion, or unless a certificate of occupancy is issued and a use commenced within that period, or unless a longer period of time is requested and granted by the Planning Commission. Any request for a time extension shall be required not less than thirty (30) days prior to the expiration of the three (3) year time period.

#### 10. Safety.

a. System Certification. Battery Energy Storage Systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:

i. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications);

ii. UL 1642 (Standard for Lithium Batteries);

iii. UL 1741 or UL 62109 (Inverters and Power Converters);

iv. Certified under the applicable electrical, building, and fire prevention codes as Required; and

v. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

b. Site Access. Battery Energy Storage Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 2 Battery Energy Storage System is located in an ambulance district, the local ambulance corps.; and

c. Battery Energy Storage Systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within



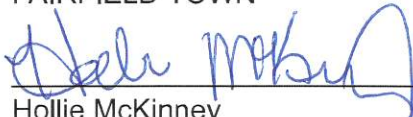
weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

11. The Planning Commission is the approval authority.
12. Enforcement. Any violation of this Section regulating Battery Energy Storage Systems shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the Town's zoning or land use regulations.
13. Appeals See 10.5.170.
14. Application to Successors and Assigns. The terms of any conditional use permit issued pursuant to this Code shall run with the land and be binding on any successor or assignee of an applicant, owner or operator and any party that purchases and/or operates a Battery Energy Storage System. Any successor to or assignee of the original permittee of a conditional use permit for a Battery Energy Storage System shall provide its name and mailing address to the Town within thirty (30) days after completion of such transfer and shall provide replacement decommissioning security to the Town consistent with the requirements set forth in Section 7(a)(iii)(a) of this ordinance. Each successor or assignee of the original permittee shall be deemed the permittee under the conditional use permit from and after the date of such transfer and shall comply with the terms of the conditional use permit for the Battery Energy Storage System.
15. Savings Clause. If any part of this ordinance shall be deemed invalid by an administrative agency or court of competent jurisdiction, such decision shall not affect the legality and enforceability of any other provision hereof.
16. Penalties. Any person or entity who violates any of the provisions of this chapter or who fails to comply therewith, or who violates or fails to comply with any order or directive made thereunder, shall severally for each and every such violation and noncompliance respectively, be guilty of a class B misdemeanor, subject to penalty as provided in section 10.1.25 of this code. Furthermore, the imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All such persons or entities shall be required to correct or remedy such violations or defects within a reasonable time and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

Effective Date: This Ordinance shall become effective immediately upon passage and adoption.

Passed and Adopted this 11<sup>th</sup> day of April 2024.

FAIRFIELD TOWN

  
Hollie McKinney

RL Panek	yes <u>27</u>	no _____
Tyler Thomas	yes <u>27</u>	no _____
Michael Weber	yes <u>27</u>	no _____
Richard Cameron	yes <u>27</u>	no _____

ATTEST:

  
Stephanie Shelley, Town Recorder/Clerk

FAIRFIELD TOWN

STATE OF UTAH     )  
                                  ) ss.  
COUNTY OF UTAH    )

I, Stephanie Shelley, Town Recorder of Fairfield Town, Utah, do hereby certify and declare that the above and foregoing is a true, full and correct copy of an ordinance passed by the Town Council of Fairfield Town, Utah, on the 28th day of March, 2024.

**Ordinance # 2024-01** Title 10.00. An Ordinance Adopting Amendments to Title 10.11.00. Light Industrial Zone East., adding #9. Battery Energy Storage Systems to the list of Conditional Uses in Section 10.11.210.L., and also amending Title 10.17.00. Conditional Uses., adding #10. Battery Energy Storage Systems to the list in Section 10.17.100.A; and adding K. Minimum Standards for Battery Energy Storage Systems to Section 10.17.100.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Fairfield Town Utah this 11<sup>th</sup> day of April, 2024.

  
Stephanie Shelley  
Fairfield Town Recorder/Clerk

(SEAL)



AFFIDAVIT OF POSTING

STATE OF UTAH     )  
                                  )  
COUNTY OF UTAH    )

I, Stephanie Shelley, Town Recorder of Fairfield Town, Utah, do hereby certify and declare that I posted in three (3) public places the following summary of the ordinance which was passed by the Fairfield Town Council on the 15<sup>th</sup> day of April, 2024 and herein referred to as:

SUMMARY.

An Ordinance amending the Fairfield Town Code by amending the Light Industrial Zone East., by adding #9 Battery Energy Storage Systems to the list of Conditional Uses in Section 10.11.210.L., and also amending Title 10.17.00. Conditional Uses., by adding #10. Battery Energy Storage Systems to the list in Section 10.17.100.A; and also by adding K. Minimum Standards for Battery Energy Storage Systems to Section 10.17.100.

The three places are as follows:

1. Fairfield Town Hall
2. Fairfield Town Website
3. Utah State Public Notice Website

  
Stephanie Shelley  
Fairfield Town Recorder/Clerk

Date of Posting 15<sup>th</sup> day of April, 2024