

ORDINANCE NO. 103

**AN ORDINANCE AMENDING THE MITCHELL COUNTY ZONING
ORDINANCE (ORDINANCE 17) MAKING REVISIONS REGARDING
WIND ENERGY CONVERSION SYSTEMS (WECS) AND BATTERY
ENERGY STORAGE SYSTEMS (BESS)**

NOW, THEREFORE, BE IT ORDAINED by the Mitchell County Board of Supervisors that the Mitchell County Zoning Ordinance (Ordinance 17) is hereby amended as follows:

SECTION 1. Article 1.27, “Small Wind Energy Conversion Systems (S-WECS)” is hereby amended as follows:

1. Repeal Sub-Section 16(j) and replace with the following:
 1. Liability Insurance. There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least one million dollars (\$1,000,000) per occurrence and least two million dollars (\$2,000,000) in the aggregate. Certificates shall be made available to Mitchell County upon application.

SECTION 2. Article 1.27A, “Commercial Wind Energy Conversion Systems Requirements” is hereby amended as follows:

1. Repeal Sub-Sections 3(d)(vi) and 3(d)(vii) and replace with the following:
 - vi. Distance from all dwellings and occupied buildings within one thousand, four hundred fifty (1,450) feet or 210% of the total height of each proposed wind turbine, whichever is greater, of each wind turbine;
 - vii. Distance from Public Conservation Areas and Public Recreation Areas within one half (1/2) of a mile of each proposed wind turbine;
2. Repeal Sub-Section 5(g) and replace with the following:
 - g. Liability Insurance. There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least ten million dollars (\$10,000,000) per occurrence and twenty million dollars (\$20,000,000) in the aggregate. Certificates shall be made available to Mitchell County upon application.

3. Repeal Sub-Section 6(d)(ii) and replace with the following:

- ii. Decommissioning Funds shall be maintained in the form of cash, certificate of deposit, performance bond, escrow account, surety bond, letter of credit, or other form of financial assurance as agreed to by the County Attorney. Any financial document evidencing the maintenance of Decommissioning Funds shall include provisions for releasing the funds to Mitchell County in the event decommissioning is not completed in a timely manner. Decommissioning Funds as may otherwise be required by the Iowa Utilities Board shall be considered sufficient, provided that such funding meets the requirements of this Section.

SECTION 3. Article 1.27B, “Commercial Battery Energy Storage Systems Requirements” is hereby amended as follows:

1. Repeal all Sub-Sections from repeated Sub-Section 2, “Safety” through Sub-Section 8, “Contact Person and Change of Ownership” and replace with the following:

7. Safety. The C-BESS project shall comply with the following safety standards:

- a. Signage. The C-BESS shall have signage in compliance with ANSI Z535 and shall include the type of technology associated with said C-BESS, any special hazards associated, the type of suppression system installed in the area of C-BESS, and 24-hour emergency contact information, including reach-back phone number.

As required by the National Electric Code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

- b. Minimum Clearance. Areas within ten (10) feet of the C-BESS shall be clear of combustible vegetation or other combustible materials or growth.
- c. Fire and Safety Compliance. The Applicant shall be responsible in meeting all standards of the National Fire Protection Association (NFPA) and applicable state and federal fire and safety requirements, including but not limited to NFPA 1, NFPA 70, NFPA 855, and the National Electrical Code (NEC).
- d. Emergency Response Plan. The Applicant shall submit a copy of the site plan of the C-BESS project and Emergency Response Plan to the Mitchell County Emergency Management Coordinator and applicable local fire departments. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and local first responders. The Emergency Response Plan shall include the following information:

- i. Twenty-four (24) hour emergency contact information for the C-BESS project.
 - ii. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
 - iii. Procedures for inspection and testing of associated alarms, interlocks, and controls.
 - iv. Procedures to be followed in response to notifications from the battery energy storage system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
 - v. Procedures and schedules for conducting drills of said procedures and for training local first responders on the contents of the plan and appropriate response procedures.
- e. Emergency Response Training. The Applicant shall contact and develop a training program for emergency response with the Mitchell County Emergency Management Coordinator and local first responders. At the discretion of the Mitchell County Emergency Management Coordinator, the Permit Holder shall be required to provide training sessions or standard emergency equipment to local first responders.
8. Operations and Maintenance Plan. The Applicant shall describe the ongoing maintenance schedule and operations for the C-BESS project as well as the general upkeep of the equipment.
9. Roads. Prior to construction, the applicant shall enter into agreement with Mitchell County and shall meet all of the following requirements at a minimum, in addition to all requirements of the Mitchell County Engineer's Office:
 - a. The Applicant shall develop a construction plan identifying proposed construction routes, intersection modifications, or other necessary road right-of-way modifications. Construction routes shall be via paved roads to the extent feasible. However, the applicant shall use construction routes as directed by the Mitchell County Engineer. The Mitchell County Engineer shall approve all road, road right-of-way, and intersection modifications for construction purposes prior to construction.

- b. The Applicant shall conduct a pre-construction survey, at its expense and in coordination with the Mitchell County Engineer, to determine existing road, road right-of-way, and bridge conditions. The survey shall include photographic or video documentation and shall be provided to the Mitchell County Engineer prior to construction.
- c. The Applicant shall be responsible for restoring and paying for any damage to road, road-right-of-way, and bridges to pre-construction or better condition.
- d. The Applicant shall be responsible for making reasonable efforts to apply dust control on applicable gravel-surfaced roads or at construction sites to prevent fugitive dust from becoming a nuisance as regulated by Iowa Code, Chapter 657 (or as amended) and Iowa Administrative Code 567—Chapter 23.3 (or as amended).
- e. The Applicant shall be responsible to obtain all oversize permits as required by the Mitchell County Engineer.

10. Drainage Systems.

- a. **Public Drainage Systems.** Prior to construction, the Applicant shall follow all established procedures of Mitchell County and state law regarding public drainage infrastructure and right-of-way that may be affected by a proposed C-BESS project. The Applicant and/or Permit Holder shall be responsible for the immediate repair of any damage to public drainage infrastructure resulting from the construction, operation, or maintenance of the C-BESS project.
- b. **Private Drainage Systems.** The Applicant and/or Permit Holder shall be responsible for immediate repair of damage to private drainage systems stemming from the construction, operation, or maintenance of the C-BESS project. Such damage shall be repaired as soon as feasible and on a schedule agreeable to the affected landowner.

11. Sound. The one-hour average noise generated by the C-BESS components and associated ancillary equipment shall not exceed a noise level of 50 decibels (dBA) as measured from the nearest point of any dwelling or occupied building. Applicants may submit equipment and component manufacturer noise ratings at the time of application to demonstrate compliance. If the ambient sound pressure level exceeds 50 decibels (dBA), the standard shall be the ambient LEQ (equivalent continuous sound pressure level) plus five (5) decibels (dBA).

- a. At the discretion of the Board of Adjustment, the Applicant may be required to provide a baseline noise evaluation study completed by a board certified professional by the Institute of Noise Control Engineering (INCE), or an

appropriately licensed professional engineer (PE) prior to construction of the proposed C-BESS project.

- b. To document decibel level if there is a complaint on an operational system, at the discretion of the Zoning Administrator, the Permit Holder shall commission a report providing operating sound pressure level measurements from a reasonable number of sampled locations at the outside wall of the nearest dwelling or occupied buildings to demonstrate compliance with this standard. Said report shall be completed by a board certified professional by the Institute of Noise Control Engineering (INCE) or an appropriately licensed professional engineer (PE).
- c. C-BESS may exceed maximum sound levels upon agreement with an affected property owner. Said agreement shall be in the form of a sound waiver easement agreement and officially recorded in the Mitchell County Recorder's Office. Evidence or affidavit of any applicable sound waiver easement agreement shall be provided at the time of application.

12. Decommissioning, Abandonment, and Site Restoration Plan. The following requirements and procedures shall apply to any permitted C-BESS project:

- a. Decommissioning, Abandonment, and Site Restoration Plan. A decommissioning plan shall be submitted with the application. The plan shall include removal of batteries, buildings, cabling, electrical components, roads, foundations, and all applicable accessory equipment and any other associated facilities as determined by the Zoning Administrator.
- b. End of Useful Life. The Permit Holder, at its expense, shall complete decommissioning of the C-BESS project within twelve (12) months after the end of its useful life. The C-BESS project shall be presumed to be at the end of its useful life if no electricity is stored for a continuous period of one (1) year unless the Permit Holder is granted an extension by the Board of Adjustment for reasons beyond the Permit Holder's control, such as a force majeure event, the project is in the process of repowering, or any other reason determined by the Board of Adjustment to be reasonable.
- c. Remediation of the C-BESS Project. The property on which the C-BESS project is located shall be returned to its preconstruction state, unless the participating landowner requests in writing that the access roads or other land surface areas not be restored.
- d. Cost Estimate of Decommissioning. An independent licensed engineer shall be retained to estimate the total cost of decommissioning the C-BESS project and associated facilities. Said estimates shall be submitted to the Zoning Administrator with the initial application and every fifth year thereafter.

SECTION 4. REPEALER. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 5. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 6. SAVING. The Mitchell County Zoning Ordinance (Ordinance 17) shall remain in full force and effect, save and except as amended by this Ordinance.

SECTION 7. EFFECTIVE DATE. This Ordinance shall be in effect after its final passage, approval, and publication as provided by law.

Motion was made by Supervisor Marzen and seconded by Supervisor Wherry that the foregoing Ordinance be adopted.

Ayes: All Ayes

Nays: none

Absent/Not Voting: none

Date of First Consideration: 11/25/2025

Date of Second Consideration: 11/25/2025

Date of Third Consideration: 11/25/2025


Ordinance adopted this 25th day of November, 2025.



Vice Chair, Board of Supervisors
Mitchell County, Iowa

I hereby certify that the foregoing is a full, true, and complete copy of the Ordinance as full, true, and complete as the same remains on file and of Record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Auditor's Office in Osage, Iowa, this 25th day of November, 2025.



Rachel Foster, Auditor
Mitchell County, Iowa