

County Commissioners

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MARION COUNTY PUBLIC WORKS

MEMORANDUM

DATE: May 16, 2025

TO: Marion County Board of Commissioners

FROM: Marion County Public Works – Brandon Reich, Planning Director

SUBJECT: Public Hearing on Amendments to clarify the applicability of existing code provisions related to battery energy storage systems in the Marion County Urban and Rural Zone Codes Chapters 16 and 17.

BACKGROUND

Commercial Battery Energy Storage Systems (“BESS”) use batteries to store electrical energy for use on the electrical grid. These systems are not explicitly listed in the county zoning code. These amendments provide the county the opportunity to clarify the applicability of existing code provisions related to battery energy storage systems and determine if they are a permitted use at this time.

COMMENTS

At the time this staff report was prepared, no comments were received.

FACTS AND ANALYSIS**Code Applicability**

While these facilities are not explicitly referenced in code, there are two existing code provisions that a BESS could be considered, depending on available evidence: a utility facility or a power generation facility.

Historically, utility facilities have been structures and facilities such as cellular towers, wastewater treatment facilities, and city wells, which can be found on urban or rural land, including resource farm and forest zones. These are usually owned by a public entity and provide regular utility service to customers in an area. While a BESS is connected to the electrical power grid, and may be located near a substation, it appears to be ancillary to the grid or substation and not a utility service itself. Without additional evidence and analysis, a commercial BESS cannot be considered a utility facility.

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A commercial BESS could also be considered a power generation facility. Power generation involves storing power in some manner that gets converted to electricity for use on the grid, such as water stored at an elevation behind a dam which is used to generate electrical power. A BESS stores electrical power from the grid to be placed back on the same grid later. In this manner a BESS could be considered power generation because of its role in storing power for use on the electrical grid. However, a BESS stores power previously generated rather than generates new power for the grid. As a result of this process, and without additional evidence and analysis, a BESS cannot be considered a power generation facility.

At this time there do not appear to be zoning code provisions related to BESS in Oregon Statute or Oregon Administrative Rules.

Land Use Criteria and Standards

A commercial BESS is a more intensive use than many other uses contemplated in the zoning code. It also brings with it potential impacts that could be at least partially mitigated through criteria adopted in the zoning code and standards for development. The potential issues include fires; release of gases, chemicals, and metals; potential pollution of air, water and soil; loss of farmland; increased demands on emergency response; and decommissioning.

Future code amendments could adopt criteria and standards for these systems to mitigate potential impacts. These could include code amendments related to setbacks, farmland protection, fire system requirements, development of emergency response plans, facility monitoring, site development standards, decommissioning plan, and others.

RECOMMENDATION

Because battery energy storage systems are a novel use that are not explicitly allowed by county code, nor implicitly contemplated in code, and there are no zoning code provisions related to them in Oregon Statute or Oregon Administrative Rules, they are not allowed by the zoning code at this time without possible future amendments. This prohibition does not apply to personal battery storage systems that do not primarily store power for public use or sale.

Staff recommends the board review the suggested amendments and direct staff to prepare an ordinance for its consideration of adoption.

Attachments:

Draft code amendments