



CITY OF NEW HAVEN

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AGENDA
Common Council Regular Agenda
December 2, 2025, at 5:30 PM
City Hall Community Room
815 Lincoln Highway E.

I. CALL TO ORDER

- A. Welcome - please silence cell phones and other electronic devices.
- B. Pledge of Allegiance
- C. Roll Call
- D. Title VI Statement
- E. Approval of Minutes from the previous meeting
 - 1. Approval of minutes from 11/18/2025 meeting

II. STANDING COMMITTEE REPORTS

III. UNFINISHED BUSINESS

- A. Second reading of Ordinance Z-25-30, an ordinance titled, An Ordinance Amending Chapter 157: New Haven Unified Development Ordinance of the City of New Haven, Indiana

IV. NEW BUSINESS

V. ANY OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE COUNCIL

VI. PUBLIC COMMENTS

VII. ADJOURNMENT

MEMBER

Matt Newbauer, 1st District

TERM

1/1/24-12/31/27

| | |
|---------------------------------|-----------------|
| Jeff Turner, 2nd District | 1/1/24-12/31/27 |
| Craig Dellinger, 3rd District | 1/1/24-12/31/27 |
| Mike Mowery, 4th District | 1/1/24-12/31/27 |
| Amelia Gascoigne, 5th District | 1/1/24-12/31/27 |
| Bob Byrd, Council-At-Large | 1/1/24-12/31/27 |
| Terry Werling, Council-At-Large | 1/1/24-12/31/27 |

Meetings are archived and can be viewed live at <https://newhavenin.portal.civicclerk.com/>.

November 18, 2025

MINUTES OF A REGULAR MEETING OF THE COMMON COUNCIL
OF THE CITY OF NEW HAVEN, INDIANA

The Common Council of the City of New Haven Indiana met in the City Hall Community Room on the November 18, 2025 at the hour of 5:30 PM in a Regular session in accordance with the rules of the Council.

I. CALL TO ORDER

The meeting was called to order by Council President Craig Dellinger, who presided.

- A. Welcome - please silence cell phones and other electronic devices.
- B. Pledge of Allegiance
- C. Roll Call

On the call of the roll, the members of the Common Council were shown to be present or absent as follows:

Present: Amelia Gascoigne, Matt Newbauer, Jeff Turner, Craig Dellinger, and Bob Byrd. Terry Werling arrived at 5:37

Absent: Mayor Steve McMichael & Mike Mowery

Also Present: Council Attorney Steve Harrants

- D. Title VI Statement
- E. Approval of Minutes from the previous meeting
 - 1. Approval of minutes from 11/04/2025

Bob Byrd made a motion to approve the minutes from the 11/04/2025 meeting, Jeff Turner seconded the motion, and the motion was approved by the following vote:

Ayes: Amelia Gascoigne, Matt Newbauer, Jeff Turner, Craig Dellinger, Bob Byrd, and Terry Werling

Nays: None

II. STANDING COMMITTEE REPORTS

III. UNFINISHED BUSINESS

- A. Second reading of an ordinance titled, An Ordinance Amending the Zoning Map of the New Haven Plan Commission's Jurisdictional Area

Under unfinished business item A, was the second reading of Ordinance Z-25-29 titled, An Ordinance Amending the Zoning Map of the New Haven Plan Commission's Jurisdictional Area. Amelia Gascoigne made a motion to approve by title only, ordinance Z-25-29, an ordinance titled An Ordinance Amending the Zoning Map of the New Haven Plan Commission's Jurisdictional Area. Terry Werling seconded the motion, and the motion was approved by the following vote:

Ayes: Amelia Gascoigne, Matt Newbauer, Jeff Turner, Craig Dellinger, Bob Byrd and Terry Werling

Nays: None

IV. NEW BUSINESS

- A. Introduction of a resolution titled Resolution by the Common Council of the City of New Haven, Indiana, to Correct Scrivener's Error

Under new business item A, was the introduction of a resolution titled Resolution by the Common Council of the City of New Haven, Indiana, to Correct Scrivener's Error. Matt Newbauer made a motion to approve by title only, a resolution titled, Resolution by the Common Council of the City of New Haven, Indiana, to Correct Scrivener's Error. Jeff Turner seconded the motion and the motion was approved by the following vote:

Ayes: Amelia Gascoigne, Matt Newbauer, Jeff Turner, Criag Dellinger, Bob Byrd, and Terry Werling

Nays: None

Clerk Treasurer Angela Hamrick read by title only, and numbered resolution R-25-35 a resolution titled Resolution by the Common Council of the City of New Haven, Indiana, to Correct Scrivener's Error.

- B. Introduction of a resolution titled, New Haven City Council Confirmatory Resolution Application of Diversified Metal Specialties Inc. for the Designation of Economic Revitalization Area No. NH-118

Under new business item B, was the introduction of a resolution titled, New Haven City Council Confirmatory Resolution Application of Diversified Metal Specialties, Inc. for the Designation of Economic Revitalization Area NH-118. Jeff Turner made a motion to approve by title only, a resolution titled, New Haven City Council Confirmatory Resolution Application of Diversified Metal Specialties, Inc. for the Designation of Economic Revitalization Area NH-118. Matt Newbauer seconded the motion, and the motion was approved by the following vote:

Ayes: Amelia Gascoigne, Matt Newbauer, Jeff Turner, Craig Dellinger, Bob Byrd, and Terry Werling

Nays: None

Clerk Treasurer Angela Hamrick, read by title only resolution R-25-36 a resolution titled, New Haven City Council Confirmatory Resolution Application of Diversified Metal Specialties, Inc. for the Designation of Economic Revitalization Area NH-118

- C. Introduction of a resolution titled, New Haven City Council Resolution Waiving Non-Compliance for Ruble Property Group, LLC./Ruble Trucking Sales, LLC.

Under new business item C, was the introduction of a resolution titled New Haven City Council Resolution Waiving Non-Compliance for Ruble Property Group, LLC./Ruble Trucking Sales, LLC. Terry Werling made a motion to approve by title only a resolution titled New Haven City Council Resolution Waiving Non-Compliance for Ruble Property Group, LLC./Ruble Trucking Sales, LLC. Amelia Gascoigne seconded the motion, and the motion was approved by the following vote:

Ayes: Amelia Gascoigne, Matt Newbauer, Jeff Turner, Craig Dellinger, Bob Byrd, and Terry Werling

Nays: None

Clerk Treasurer Angela Hamrick read by title only and numbered R-25-37 a resolution titled New Haven City Council Resolution Waiving Non-Compliance for Ruble Property Group, LLC./Ruble Trucking Sales, LLC.

- D. Introduction and first reading of an ordinance titled, An Ordinance Amending Chapter 157: New Haven Unified Development Ordinance of the City of New Haven, Indiana (Solar Ordinance)

Under new business item D, was the introduction and first reading of an ordinance titled An Ordinance Amending Chapter 157: New Haven Unified Development Ordinance of the City of New Haven, Indiana (Solar Ordinance). Bob Byrd made a motion to approve by title only the first reading of an ordinance titled, An Ordinance Amending Chapter 157: New Haven Unified Development Ordinance of the City of New Haven, Indiana (Solar Ordinance) Amelia Gascoigne seconded the motion, and the motion was approved by the following vote:

Ayes: Amelia Gascoigne, Matt Newbauer, Jeff Turner, Craig Dellinger, Bob Byrd, and Terry Werling

Nays: None

Clerk Treasurer Angela Hamrick read by title only, and numbered ordinance Z-25-30 an ordinance titled An Ordinance Amending Chapter 157: New Haven Unified Development Ordinance of the City of New Haven, Indiana (Solar Ordinance)

V. ANY OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE COUNCIL

VI. PUBLIC COMMENTS

VII. ADJOURNMENT

Terry Werling made a motion to adjourn the meeting, Jeff Turner seconded the motion, and the meeting was adjourned.

Craig Dellinger
Presiding Officer

Angie Hamrick
Clerk Treasurer

ORDINANCE NO. Z - _____

AN ORDINANCE AMENDING
CHAPTER 157: NEW HAVEN UNIFIED DEVELOPMENT ORDINANCE
OF THE CITY OF NEW HAVEN, INDIANA

WHEREAS, Indiana Code 36-7-4-601 permits a legislative body to adopt ordinances for the purposes of: (1) securing adequate light, air, convenience of access, and safety from fire, flood, and other danger; (2) lessening or avoiding congestion in public ways; (3) promoting the public health, safety, comfort, morals, convenience, and general welfare; and (4) otherwise accomplishing the purposes of Indiana Code 36-7-4, *et seq.*; and

WHEREAS, the City of New Haven desires to make typographical and textual corrections to the New Haven Unified Development Ordinance.

THEREFORE, BE IT NOW ORDAINED by the Common Council of the City of New Haven that:

SECTION I. Chapter 157 New Haven Unified Development Ordinance typographical and textual changes are hereby amended as follows:

157.203 (B)(Permitted Uses)

(3) Battery Energy Storage Systems “BESS” – “FTM” as set forth in §157.413
(4) Commercial Solar Energy System “CSES” as set forth in §157.413
Renumbering the permitted use list.

157.222 (B)(Permitted Uses)

Battery Energy Storage Systems “BESS” – “BTM”
Solar Panel (ground mounted)

157.222 (C)(Special Uses)

(5) Solar panel (ground-mounted)

157.222 (E)(Development Standards)

Front Yard ⁽³⁾
Notes:
(3) Solar Panel (ground-mounted) shall meet the Primary Building setbacks.

157.223 (B)(Permitted Uses)

Battery Energy Storage Systems “BESS” – “BTM”
Battery Energy Storage Systems “BESS” – “FTM” ⁽⁶⁾
Commercial Solar Energy System “CSES” ⁽⁶⁾
Solar Panel (ground mounted)
Notes:
(6) Design standards under Section (157.413)

157.223 (C)(Special Uses)

(16) Solar panel (ground-mounted)

157.223 (E)(Development Standards)

Front Yard ⁽³⁾
Notes:
(3) Solar Panel (ground-mounted) shall meet the Primary Building setback.

157.224 (B)(Permitted Uses)

Battery Energy Storage Systems “BESS” – “BTM”
Battery Energy Storage Systems “BESS” – “FTM” ⁽⁶⁾
Commercial Solar Energy System “CSES” ⁽⁶⁾
Solar Panel (ground mounted)
Notes:
(6) Design standards under Section (157.413)

157.224 (C)(Special Uses)

(14) Solar panel (ground-mounted)

157.224 (E)(Development Standards)

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|---|
| Front Yard ⁽³⁾ |
| Notes: (3) Solar Panel (ground-mounted) shall meet the Primary Building setback. |

157.225 (B)(Permitted Uses)

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|---|
| Battery Energy Storage Systems “BESS” – “BTM” Battery Energy Storage Systems “BESS” – “FTM” ⁽⁷⁾ Commercial Solar Energy System “CSES” ⁽⁷⁾ Solar Panel (ground mounted) Notes: (7) Design standards under Section (157.413) |
|---|

157.225 (C)(Special Uses)

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|-----------------------------------|
| (11) Solar panel (ground-mounted) |
|-----------------------------------|

157.225 (E)(Development Standards)

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| Front Yard ⁽³⁾ |
| Notes: (3) Solar Panel (ground-mounted) shall meet the Primary Building setback. |

157.226 (B)(Permitted Uses)

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|---|
| Battery Energy Storage Systems “BESS” – “BTM” Solar Panel (ground mounted) |
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157.226 (C)(Special Uses)

| |
|-----------------------------------|
| (15) Solar panel (ground-mounted) |
|-----------------------------------|

157.226 (E)(Development Standards)

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| Front Yard ⁽³⁾ |
| Notes: (3) Solar Panel (ground-mounted) shall meet the Primary Building setback. |

157.301 (B) When Required

| TYPE OF DEVELOPMENT | PRIMARY DEVELOPMENT PLAN REQUIRED | SECONDARY DEVELOPMENT PLAN REQUIRED |
|---|--|--|
| Projects proposing a Commercial Solar Energy System (CSES) or Battery Energy Storage System (BESS) - FTM | <input type="checkbox"/> | <input type="checkbox"/> |

157.408 (D) Standards and Requirements (2)(d)

| LANDSCAPE CODES – BUILDINGS AND OUTDOOR ACTIVITY AREAS | | |
|---|--|---------------------------------|
| Building Type | Landscape Code, if Adjacent To: | |
| | Residential districts | Nonresidential districts |
| Commercial, Retail, Industrial, Solar Panel (Ground Mounted) or Universally Permitted Use Building | B-2 | No requirement |

157.408 (D) Standards and Requirements (2)(f) Landscape codes for Solar Energy (CSES) and Batter Energy Storage Systems – FTM are covered under §157.413 (C)(2)

157.503 (D) Special Uses (1) List of Special Uses - Deleting BTI, I1, I2, I3.

157.506 Definitions (B)

Battery Energy Storage System or “BESS” Behind the Meter “BTM”

A battery energy storage system that is installed on a consumer's property or as part of an overall development plan and on the consumer’s side of the utility's electricity meter. These systems are intended to store excess energy from private solar panels for later use onsite.

Solar Panel (building-mounted)

A building-mounted solar panel or a combination of panels or elements that does or will use direct sunlight as a source of energy for purposes such as heating or cooling of a structure, heating or pumping of water, and generating electricity. Solar panels shall be associated with and accessory to a permitted primary building.

Amended Definition:

Solar Panel (ground-mounted)

A single panel or combination of panels or elements that does or will use direct sunlight as a source of energy for purposes such as heating or cooling of a structure, heating or pumping of water, and generating electricity primarily for onsite use. Solar panels shall be associated with and accessory to a permitted primary building and shall include both photovoltaic and hot water devices.

§157.413 SOLAR ENERGY SYSTEMS

(A) Definitions

Adjacent

For the purposes of section 157.413 shall mean two or more lots whose external boundaries adjoin one another. This shall also include two properties separated by railroad right-of-way and or road right-of-way

Agrivoltaics

Any land co-located with an improved CSES used for agricultural production, including land used for crop production, grazing, apiaries, or other agricultural products or services.

Battery Energy Storage System or “BESS Front of Meter “FTM”

A battery energy storage system that is capable of storing and releasing more than one (1) megawatt of electrical energy for a minimum of one (1) hour using an AC inverter and DC storage, but not including:

- (1) Foundations or property used to directly or indirectly connect the AC inverter or DC storage of such a system to electrical energy production equipment or to a customer’s meter;
- (2) An energy storage system that is used for the purpose of providing electricity to meet or offset all or part of a host operation’s energy needs;
- (3) A battery recycling facility; and
- (4) The manufacturing or storage of batteries by an automobile manufacturer.

Commercial Solar Energy System or “CSES”

A solar energy system with a nameplate capacity of at least ten (10) megawatts that captures and converts solar energy into electricity for the purpose of selling the electricity at wholesale and for use in locations other than where it is generated. The term shall include solar panels, collection and feeder lines, generation tie lines, substations, ancillary buildings, solar monitoring stations, accessory equipment or structures, and all other related project facilities. A concentrated Solar Energy System shall not be installed within the **city**.

Construction Commencement

The installation of permanent infrastructure, including but not limited to underground electrical, steel piles, or access roads, and any other construction activity for the project that requires a permit to be issued by applicable City authorities.

Nonparticipating Property

Any lot or parcel of real property that is:

- (1) Not owned by the owner of a proposed CSES or BESS-FTM, and
- (2) With respect to which:
 - (a) The owner does not seek to install any CSES or BESS-FTM project or other facilities related thereto (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure), or to otherwise enter into an lease or any other agreement with the property owner for use of the property in connection with a CSES or BESS-FTM project, or
 - (b) The owner of the property does not consent to having a CSES or BESS-FTM project or other related facilities (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure) installed or located, or to otherwise enter into a lease or any other agreement with the owner for use of all or part of the property in connection with a CSES or BESS-FTM project.

Nonparticipating Landowner

The owner of a nonparticipating property.

Owner

For the purpose of this section of the ordinance shall mean a person that owns or will own one (1) or more CSES or BESS-FTM located or proposed to be located within the City.

Participating Property

Any property that is: not owned by the owner of a proposed CSES or BESS-FTM, and with respect to which:

- (a) The owner seeks to install any CSES or BESS-FTM project or other facilities related thereto (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure), or to otherwise enter into a lease or any other agreement with the property owner for use of the property in connection with a CSES or BESS-FTM project, or
- (b) The owner of the property consents to having a CSES or BESS-FTM project or other related facilities (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure) installed or located, or to otherwise enter into a lease or any other agreement with the owner for use of all or part of the property in connection with a CSES or BESS-FTM project.

Participating Landowner

The owner of a participating property.

Permit Authority

The New Haven Common Council with respect to all rezoning decisions, and the New Haven Plan Commission with respect to all development plan decisions.

Unified Development Ordinance

The New Haven Unified Development Ordinance, as amended.

(B) CSES/BESS-FTM Development Plans

(1) Additional Submittal Requirements

- (a) CSES and BESS-FTM shall only be permitted through an approved Primary and Secondary Development as required by Section 157.301(B) and must meet the following additional requirement:
 - i. The owner shall submit with its application a copy of all the leases it has entered into with participating landowners for the project site and all leases must be recorded in the office of the Allen County Recorder prior to submission,

(2) Applicability

- (a) Unless otherwise noted, any provision within this Section that applies to CSES shall also apply to BESS-FTM.
- (b) Section 157.413 (C)(1) Setbacks & (C)(2) Landscaping shall only apply along the boundary of the approved CSES Development Plan including along public roads and railroad right-of-way within the project area.

(C) Development Standards for CSES AND BESS-FTM

(1) Setbacks

- (a) Subject to any waivers under this section, an owner may not install or locate a CSES or BESS-FTM unless the following minimum setback requirements are met, as measured in a straight line from the nearest outer edge of the project's solar panels or the outer edge of any other above-ground project equipment:
 - i. To a participating property line with a dwelling or to a vacant participating or nonparticipating property line: 100 feet
 - ii. To a nonparticipating property line with a dwelling: 300 feet
 - iii. To a property line of a commercial or industrial property: 50 feet
 - iv. To the edge of a-right-of-way:
 - (a) 150 feet, if proper buffer and trail have been installed pursuant to Subsection (c) hereof or,
 - (b) 400 feet, if no proper buffer and trail has been installed to Subsection (c) hereof.
- (b) Unless otherwise provided herein the above property line and dwelling setback requirements may be reduced through the Primary Development Plan waiver process under Section 157.405(B)
- (c) In order to satisfy the requirements for the reduced setbacks with respect to roads under Subsections 157.413(C)(1)(a)(iv)(a) hereof, Owners of CSES/BESS-FTM shall install and maintain landscaping and a trail pursuant to the following requirements:
 - i. Owners shall plant, establish and maintain landscaping for the life of the CSES/BESS-FTM project pursuant to the requirements set forth in Section 157.413 (C)(2) Landscaping and (C)(3) Ground Cover hereof.
 - ii. The nearest edge of the landscape buffer must be at least 60 feet from the edge of a-right-of-way; otherwise, the buffer may be located anywhere within the required setback.
 - iii. Trails shall be asphalt or concrete, a minimum of 8 feet wide, shall comply with all ADA specifications, and maintained for the life of the project.

(2) Landscaping

Owners of CSES/BESS-FTM shall plant, establish and maintain landscaping for the life of the CSES/BESS-FTM project within the site buffer areas pursuant to the following requirements:

- (a) Except as specified under Section 157.413 (C)(1)(c)(ii) hereof, the buffer may be located anywhere within the required setback.
- (b) If the CSES or BESS-FTM is adjacent to a participating property line with a dwelling or adjacent to a right-of-way
 - i. 1 evergreen tree of at least 6 feet in height at time of planting every 20 feet.
- (c) If the CSES or BESS-FTM is adjacent to a nonparticipating property line with a dwelling. The **Owner** shall maintain a 50-foot-deep buffer area. Each 100 linear feet of required buffer, **Owner** shall install:
 - i. 10 evergreen trees of at least 4 feet in height at time of planting, and
 - ii. 16 medium to large shrubs of at least 2 to 3 feet in height at time of planting.
- (d) Property within the required setback but outside the buffer area may comply with the provisions and uses of the underlying zoning district.

- (e) Any ancillary structures and drives installed as part of a CSES or BESS-FTM shall meet the screening requirements of Section 157.408.
 - (f) Grass or ground cover shall be planted on all portions of the required buffer areas not occupied by other landscape material.
 - (g) All evergreens, trees, shrubs, and ground cover installed shall be native, as identified by the Indiana Native Plant Society.
 - (h) All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The **Owner** shall be responsible for the continued property maintenance of all landscaping materials and shall be kept in a proper, neat and orderly appearance at all times and free from refuse and debris at all times.
 - (i) **Owner** shall be responsible for removal and replacement of unhealthy and dead plants within 6 months of written notice from the Plan Commission of the violation.
 - (j) Effectiveness of the screening and buffer shall be maintained as the plant materials mature.
- (3) **Ground Cover**
 For any CSES or BESS-FTM located within the City limits, the owner shall plant, establish, and maintain, for the life of the CSES or BESS-FTM project, perennial vegetated ground cover under and around the solar arrays, in accordance with the following requirements:
- (a) The project site shall be planted and maintained by the **Owner** for the life of the CSES or BESS-FTM with perennial vegetated ground cover, and to be free of invasive or noxious species, as listed by the Indiana Invasive Species Council. To the maximum extent feasible for site conditions, pollinator friendly seed mixes and native plants shall be used. For purposes of this Section, the project site includes ground cover on the ground around and under solar panels and in project site buffer areas. Maintenance of the site shall include regular mowing of grass areas.
 - (b) No insecticide use shall be permitted on the site. This provision does not apply to insecticide use in on-site buildings, in or around electrical boxes, or as otherwise may be deemed necessary to protect public health and safety or as may be approved by the County
 - (c) **Owners** are encouraged to incorporate agrivoltaics on the project site where reasonably feasible.
- (4) **Fencing**
 The CSES/BESS-FTM perimeter, including all ground-mounted electrical and control equipment, shall be completely enclosed by a fence no shorter than 7 feet, unless state and federal agency guidelines, if any, provide otherwise. Fencing shall be installed at least 40 feet from the front property line of the project and adhere to the following standards:
- (a) Permitted fencing materials include chain link, dark vinyl coated chain link, polyvinylchloride, wood, and welded wire mesh.
 - (b) Prohibited fencing materials: corrugated or sheet metal, chicken wire, woven wire, welded wire mesh (as a primary material), temporary construction fencing, snow fencing, or any other similar materials.
 - (c) Use of barbed wire, broken glass, nails, razor wire, spikes, electric charge or any other similar material or technology is prohibited.
 - (d) **Owner** shall work with adjacent property owners to install wildlife corridors where reasonably feasible to do so.
- (5) **Height**
 The maximum height of CSES solar panels shall not exceed 25 feet at full tilt. The height of any other CSES or BESS-FTM structures shall comply with any height requirements of the underlying zoning district.
- (6) **Lighting**
 All artificial lighting, except as required by applicable local, state or federal authority (including, but not limited to, the Federal Aviation Administration), or as required for the safety, operation, maintenance, inspection or repair of the CSES or BESS-FTM, shall be prohibited.
- (7) **Sound Limits**
 Except as otherwise allowed under the Unified Development Ordinance, a project owner may not install or locate a CSES or BESS-FTM project in the City unless the project owner demonstrates in its application materials that the CSES or BESS-FTM will not exceed an hourly average sound level of fifty (50) A-weighted decibels, as modeled at the outer wall of a dwelling located on an adjacent nonparticipating property. This requirement may be waived with respect to a given CSES or BESS-FTM only with written consent of the owner of each adjacent nonparticipating property.
- (8) **Glare**
 Except as otherwise allowed under the Unified Development Ordinance, a CSES or BESS-FTM project

must be designed and constructed to:

- (a) Minimize glare on adjacent properties and roadways; and
- (b) Not interfere with vehicular traffic, including air traffic.

(9) Location of Cables

Except as otherwise allowed under the Unified Development Ordinance, all cables of up to thirty-four and one-half (34.5) kilovolts that are located between inverter locations and project substations shall be located and maintained underground, as feasible. Other solar infrastructure, such as module-to-module collection cables, transmission lines, substations, junction boxes, and other typical aboveground infrastructure may be located and maintained above ground. Buried cables shall be at a depth of at least thirty-six (36) inches below grade or, if necessitated by onsite conditions, at a greater depth.

Cables and lines located outside of the CSES or BESS-FTM project site may:

- (a) Be located above ground; or
- (b) In the case of cables or lines of up to thirty-four and one-half (34.5) kilovolts, be buried underground at:
 - i. A depth of at least forty-eight (48) inches below grade, so as to not interfere with drainage tile or ditch repairs; or
 - ii. Another depth, as necessitated by conditions as determined in consultation with the landowner.

(10) Signal Interference

A CSES installed by a project **owner** must be installed in a manner so as to minimize and mitigate impacts:

- (a) Television signals;
- (b) Microwave signals;
- (c) Agricultural global positioning systems;
- (d) Military defense radar;
- (e) Radio reception; or
- (f) Weather and doppler radar.

(11) Road and Drainage System Impact and Repair

The **owner** and the City shall enter into Road Use Agreement that shall include the terms for usage of and impact on City roads and drainage infrastructure during construction of the project, any improvements to City roads and drainage infrastructure necessary to support project construction, communications between the owner and the City during construction, safety procedures and signage, and posting and maintenance of a financial security.

- (a) **Owner** shall provide to the City financial assurance in the form of a surety bond, letter of credit, or other form acceptable to the City for the repair or replacement of all damaged roads, bridges, signage, other transportation structures, and drainage-related infrastructure during construction, maintenance, and operation. If the financial assurance is in the form of a surety bond, the surety bond shall be issued by one of the acceptable companies listed in the latest version of “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reimbursing Companies”, Department Circular 570, issued by the U.S. Department of Treasury, or any replacement list issued by the U.S. Department of Treasury or other federal department or agency. If the financial assurance is a letter of credit shall be issued by a bank with an “Aa3” or higher rating from Moody’s Investors Service, Inc., or an “AA” or higher rating from Standard and Poor’s. The financial assurance shall be posted no later than 60 days prior to the construction commencement date.
- (b) Any road or drainage infrastructure damaged by owner during project construction must be repaired or replaced to a condition as good as or better than the original condition prior to construction, as documented by a pre-construction and post-construction video survey.
- (c) The form of Road Use Agreement must be approved at a public meeting by the City Council, and the approved form of Road Use Agreement shall be executed and entered into no later than 90 days prior to the construction commencement date.

(D) Decommissioning

(1) Decommissioning Plan

Owner shall prepare and submit with its Secondary Development Plan application a Decommissioning Plan to ensure that the project is properly decommissioned. The Decommissioning Plan shall include:

- (a) Procedures for removal and proper disposal of all physical material pertaining to the project facilities to a depth of three (3) feet beneath the soil surface, and restoration of the area occupied by the project facilities such that it is suitable for an equivalent land use to what existed immediately before construction of such improvements.
- (b) Procedures for removal of any trail installed as part of the CSES or BESS project unless removal has been waived by the landowner through written documentation of the waiver.

- (c) A detailed cost estimate from a third-party licensed engineer with experience in these matters for demolition and removal of similar facilities. Such cost estimates shall reflect and use local market rates when applicable. Salvage value may not be considered in determining decommissioning cost.
- (d) Financial assurance from the Applicant, in the form a bond, letter of credit, or other form of security approved by the City, to ensure that the project is properly decommissioned upon the end of the project life or upon abandonment of the project. Forms of the proposed financial assurance must be included in the Decommissioning Plan, and the financial assurance must be posted no later than 60 days prior to the construction commencement date.
 - i. The financial assurance shall be in an amount equal to one hundred twenty-five percent (125%) of the estimated decommissioning costs, with such costs to be reevaluated and updated every five (5) years in the same manner as the original cost estimate. In no event shall the decommissioning costs be less than the amount determined at the creation of the project.
 - ii. If the financial assurance is in the form of a surety bond, the surety bond shall be issued by one of the acceptable companies listed in the latest version of “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reimbursing Companies”, Department Circular 570, issued by the U.S. Department of Treasury, or any replacement list issued by the U.S. Department of Treasury or other federal department or agency. If the financial assurance is a letter of credit shall be issued by a bank with an “Aa3” or higher rating from Moody’s Investors Service, Inc., or an “AA” or higher rating from Standard and Poor’s.
- (e) A detailed soil and vegetation plan providing for restoration of the underlying land to its natural state.
- (f) Procedures for disposals, including proper disposal of all hazardous material, that must comply with local, state and federal law, rules and regulations in effect at the time of decommissioning.
- (g) The Decommissioning Plan shall be attached as an exhibit to a Decommissioning Agreement, to be entered into by and between the **owner** and the City. The form of Decommissioning Agreement shall be approved by the City Council and shall be entered into and executed no later than 90 days prior to the construction commencement date.

(2) Decommissioning; abandonment

Owner is required to decommission a CSES or BESS-FTM in accordance with the following timeframes:

- (a) **Owner** must initiate decommissioning within six (6) months of the date of abandonment, a force majeure event, or the end of project life. Once initiated, decommissioning of the project must be completed within an additional twelve (12) months from the date decommissioning is initiated.
- (b) A CSES or BESS-FTM is considered “abandoned” if it fails to generate electricity for one hundred and eighty (180) days. The date of abandonment shall be the date that is one hundred and eighty (180) days after the date on which the CSES or BESS-FTM last generated electricity.
- (c) If the **owner** fails to decommission the CSES or BESS-FTM pursuant to requirements of this Section, the City may draw upon the financial security and enter the project site to decommission, or engage qualified contractors to decommission, the CSES or BESS-FTM and to remove all project facilities, sell any assets removed, and remediate and restore the site.
- (d) In the event of a force majeure or other event that results in the absence of electrical generation for six (6) consecutive months, by the end of the sixth month of non-operation the owner must demonstrate to the Plan Commission that the project will be substantially operational and producing electricity within six (6) months of the force majeure event. If such demonstration is not made to the Plan Commission’s satisfaction, the decommissioning must be initiated six (6) months after the force majeure or other event. A force majeure event means fire, earthquake, flood, tornado, or other acts of God and natural disasters, and war, civil strife, or other similar violence.

(E). Economic Development Agreement; Abatement

Economic Development Agreement. **Owner** shall enter into an Economic Development Agreement with the City to address matters related to economic development and the economic impact of the proposed CSES or BESS-FTM. Unless otherwise determined by the City, such matters shall include, but not be limited to, property tax impacts, terms governing any abatement for the project (if granted by the Common Council), any economic development payments from **Owner** requested by the City, guarantees for minimum assessed value, terms for assignment of the project, payment of professional fees by **Owner**, and other related matters. The executed Economic Development Agreement must be submitted as part of the **Owner**’s Secondary Development Plan application.

SECTION II. The provisions of this ordinance are severable. If any provision, section, paragraph, sentence, or part thereof, or the application thereof to any person or thing shall be held unconstitutional or invalid, such holding shall not affect or impair the remainder of this ordinance of the remaining persons or things to which it applies, it being the legislative intent to enact each provision, section, sentence, paragraph, and part thereof, and the application thereof, separately and verbally from each other.

SECTION III. This ordinance shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of New Haven, Indiana, by this _____ day of _____, 2025.

Presiding Officer
New Haven Common Council

ATTEST:

This Ordinance was presented by me to the Mayor of the City of New Haven, Indiana, this _____ day of _____, 2025, at _____ .m.

This ordinance was approved and signed by me this _____ day of _____, 2025, at _____ .m.

Steve McMichael, Mayor