



EL DORADO - SPECIAL CITY COMMISSION MEETING AGENDA
220 E 1ST AVENUE
August 25, 2026 - 5:30 AM

CALL TO ORDER & ROLL CALL

New Business

Consideration of a Resolution authorizing and providing for the calling of a Special Election in the City of El Dorado, Kansas, for the purpose of submitting to the electors of the City an Ordinance of the City of El Dorado, Kansas, prohibiting the installation and operation of High Impact Data Centers and Tier 2 and Tier 3 Battery Energy Storage Systems to protect the health, safety, and welfare of the residents of El Dorado, Kansas; and providing for the giving notice of said election.

Adjournment

EL DORADO

KANSAS

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Consideration of a Resolution authorizing and providing for the calling of a Special Election in the City of El Dorado, Kansas, for the purpose of submitting to the electors of the City an Ordinance of the City of El Dorado, Kansas, prohibiting the installation and operation of High Impact Data Centers and Tier 2 and Tier 3 Battery Energy Storage Systems to protect the health, safety, and welfare of the residents of El Dorado, Kansas; and providing for the giving notice of said election.
DATE: August 25, 2026

Summary:

On June 1, 2026, the City Commission adopted a text amendment to Article 3, Appendix A and Article 6 of the Zoning Regulations of the City of El Dorado. The purpose of the text amendment was to provide a regulatory framework for various emerging industries, including data centers and battery energy storage systems. The text amendment received considerable public comment at both the Planning Commission's April 23 meeting and the City Commission's June 1 meeting. A citizen-initiated petition, written under the statutory authority of K.S.A. 12-3013 *et seq.*, seeking adoption of an ordinance prohibiting "high impact" data centers and Tier 2 and Tier 3 battery energy storage systems was submitted to the City Clerk on June 22, 2026. The Butler County Clerk certified the signatures on the petition on June 25, 2026.

Per K.S.A. 12-3013, the City Commission had two options to consider addressing the petition: 1) adopt the ordinance as written without amendment or revision, or 2) call an election to provide qualified voters an opportunity to consider the ordinance. At its July 13 meeting, the City Commission decided to instead seek a declaratory judgment from the 13th Judicial District of Kansas to determine if the subject matter of the petition was an administrative or a legislative issue. The petition process outlined in K.S.A. 12-3013 does not apply to administrative issues, so the petition would not require action by the City Commission if determined to be administrative. The Honorable Judge Satterfield ruled on August 21, 2026 that the ordinance in the petition addressed a legislative function and that the process outlined in K.S.A. 12-3013 applied.

The City Commission must now decide whether to adopt the ordinance as written or call an election to provide qualified voters an opportunity to consider the ordinance. At the time of this writing, the City was still working with Butler County to determine if a ballot question seeking adoption of the proposed ordinance would be placed on the November general election or a special election in March. Presently, "high impact" data centers and Tier 2 and Tier 3 battery energy storage systems are temporarily suspended from being permitted for construction. The City Commission approved Resolution No. 3060 on July 13, 2026, establishing a temporary moratorium on these specific uses until November 30, 2026. This date was selected because it would allow the moratorium to remain in effect until after an election could be held.

Attachments:

1. Election Documents for Citizen-Initiated Petition
2. Citizen-Initiated Petition Ordinance

Funding Source:

This matter has not been reviewed by an advisory committee of the City Commission.

Operation Impact:

Should the City Commission call an election to provide an opportunity for qualified voters in El Dorado to decide whether to approve an ordinance prohibiting the installation and operation of High Impact Data Centers and Tier 2 and Tier 3 Battery Energy Storage Systems?

On August 21, 2026, the Honorable Judge Satterfield of the 13th Judicial District of Kansas ruled that the citizen-initiated petition and subsequent ordinance was of a legislative nature, and that the provisions of K.S.A. 12-3013 et seq., applied to the petition. The policy issue before the City Commission is two-fold: 1) either adopt the ordinance as written with no amendments, or 2) adopt a resolution calling for an election to provide qualified voters with an opportunity to consider the proposed ordinance. If approved by the City Commission or electors of the City, the proposed ordinance will be effective for ten years from the date of publication, unless repealed or amended by a vote of the qualified voters of the City.

Options/Alternatives:

The adoption of the resolution does not have a direct fiscal impact on the City's operations. General elections are administered and paid for by the County. The City will have some publication expenses related to this item, although these costs are not substantive.

Staff Recommendation:

The City Manager recommends approving the resolution to call an election to provide an opportunity for qualified voters in El Dorado to decide whether to approve an ordinance prohibiting the installation and operation of High Impact Data Centers and Tier 2 and Tier 3 Battery Energy Storage Systems. The City Attorney may have other options the City Commission may wish to consider before proceeding with a decision on this issue.

Commission Action:

Commissioner _____ moved to approve a Resolution authorizing and providing for the calling of a Special Election in the City of El Dorado, Kansas, for the purpose of submitting to the electors of the City an Ordinance of the City of El Dorado, Kansas, prohibiting the installation and operation of High Impact Data Centers and Tier 2 and Tier 3 Battery Energy Storage Systems to protect the health, safety, and welfare of the residents of El Dorado, Kansas; and providing for the giving notice of said election.

Commissioner _____ seconded the motion.

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF EL DORADO, KANSAS
HELD ON AUGUST 25, 2026**

The City Commission (the "Governing Body") met in regular session at the usual meeting place in the City, at 5:30 p.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

Thereupon there was presented a Resolution entitled:

A RESOLUTION AUTHORIZING AND PROVIDING FOR THE CALLING OF A SPECIAL ELECTION IN THE CITY OF EL DORADO, KANSAS, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE CITY AN ORDINANCE OF THE CITY OF EL DORADO, KANSAS, PROHIBITING THE INSTALLATION AND OPERATION OF HIGH IMPACT DATA CENTERS AND TIER 2 AND TIER 3 BATTERY ENERGY STORAGE SYSTEMS TO PROTECT HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF EL DORADO, KANSAS; AND PROVIDING FOR THE GIVING NOTICE OF SAID ELECTION.

Commissioner _____ moved that the Resolution be adopted. The motion was seconded by Commissioner _____. The Resolution was duly read and considered, and upon being put, the motion for the adoption of the Resolution was carried by the following vote of the governing body:

Aye: _____.

Nay: _____.

Thereupon, a majority of the members of the governing body having voted in favor of the Resolution, it was declared duly adopted and was then duly numbered Resolution No. ____; and was directed to be signed by the Mayor and attested by the Clerk. The Clerk was further directed to transmit a copy of the resolution to the County Clerk of Butler County, Kansas, and to take all action necessary to proceed with calling the special question election in the manner prescribed by law.

* * * * *

(Other Proceedings)

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CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of El Dorado, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

Emerald Veatch, City Clerk

RESOLUTION NO. [____]

A RESOLUTION AUTHORIZING AND PROVIDING FOR THE CALLING OF A SPECIAL ELECTION IN THE CITY OF EL DORADO, KANSAS, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE CITY AN ORDINANCE OF THE CITY OF EL DORADO, KANSAS, PROHIBITING THE INSTALLATION AND OPERATION OF HIGH IMPACT DATA CENTERS AND TIER 2 AND TIER 3 BATTERY ENERGY STORAGE SYSTEMS TO PROTECT HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF EL DORADO, KANSAS; AND PROVIDING FOR THE GIVING NOTICE OF SAID ELECTION.

WHEREAS, K.S.A. 12-3013 *et seq.*, authorizes the governing body (the “Governing Body”) of the City of El Dorado, Kansas (the “City”) to submit to the electors of the City ordinances properly submitted through the citizen-initiated petition process; and

WHEREAS, a citizen-initiated petition seeking adoption of an Ordinance prohibiting the installation and operation of “high impact” data centers and Tier 2 and Tier 3 battery energy storage systems (“the Ordinance”) was received by the City Clerk on June 22, 2026; and

WHEREAS, on June 25, 2026, the Clerk of Butler County, Kansas, certified the petition as having met the signature requirements for a petition under K.S.A. 12-3013; and

WHEREAS, on August 21, 2026, the 13th Judicial District of Kansas ruled that the petition and subsequent Ordinance was of a legislative nature, and that the provisions of K.S.A. 12-3013 *et seq.*, applied to the petition; and

WHEREAS, the Governing Body deems it advisable to call an election to provide qualified voters in the City of El Dorado, Kansas, with the opportunity to consider said Ordinance; and

WHEREAS, if approved, the Ordinance will remain in effect for ten years from the date of publication, as provided in K.S.A. 12-3013(c); and

WHEREAS, in order to authorize an election on said Ordinance, it is deemed advisable to call an election to be held in connection with the general election on November 3, 2026.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EL DORADO, KANSAS:

SECTION 1. Public Purpose; Implementation of an Ordinance. It is hereby deemed necessary and advisable and in the best interests of the citizens of the City to authorize an election to provide qualified voters in the City of El Dorado, Kansas, with the opportunity to consider an Ordinance proposed through a citizen-initiated petition as herein described.

The Ordinance shall prohibit the installation and operation of “high impact” data centers and Tier 2 and Tier 3 battery energy storage systems, and if approved by the electors of the City, shall become effective following its publication as provided by K.S.A. 12-3013(c).

The Ordinance shall remain in effect **ten (10)** years after its effective date unless otherwise repealed or amended according to K.S.A. 12-3013(d), as amended.

SECTION 2. Special Question Election. It is hereby authorized, ordered and directed that a special question election shall be and is hereby called to be held in the City on November 3, 2026, the “Election”), at which time there shall be submitted to the qualified electors of the City the following proposition:

Shall the following ordinance be adopted?

“An Ordinance of the City of El Dorado, Kansas, prohibiting the installation and operation of High Impact Data Centers and Tier 2 and Tier 3 battery energy storage systems to protect the health, safety, and welfare of the residents of El Dorado, Kansas.”

SECTION 3. Special Question Election Procedures. The vote at the Election shall be by ballot, and the proposition stated above shall be printed on the ballots, together with voting instructions as provided by law. The Clerk shall transmit a copy of this Resolution to the County Clerk of Butler County, Kansas, to give notice of the Election as provided by law by publishing a Notice of Special Question Election in substantially the form attached hereto as ***Exhibit A:*** (a) once each week for two (2) consecutive weeks in a newspaper of general circulation in the City, with the first publication to be not less than twenty-one (21) days prior to the date of the special question election, and the last publication being not more than sixty (60) days prior to the date of the Election, and (b) on the website of the county election office of any county where the Election is to be conducted not less than twenty-one (21) days prior to the Election and shall remain on the website until the day after the Election.

SECTION 4. Effective Date. This Resolution shall be effective from and after its adoption by the Governing Body.

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ADOPTED AND APPROVED by the Governing Body of the City of El Dorado, Kansas, on August 25, 2026.

(Seal)

Bill Young, Mayor

ATTEST:

Emerald Veatch, City Clerk

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of the Resolution No. ____ of the City of El Dorado, Kansas, adopted by the governing body on August 25, 2026, as the same appears of record in my office.

DATED: _____, 2026.

Emerald Veatch, City Clerk

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EXHIBIT A

(Published in the *Butler County Times-Gazette* on [insert date], and [insert date], and on the website of the county election office of any county where the Election is to be conducted not less than 21 days prior to the Election and shall remain on the website until the day after the Election)

**NOTICE OF SPECIAL QUESTION ELECTION
THE CITY OF EL DORADO, KANSAS**

Notice is hereby given to the qualified electors of the City of El Dorado, Kansas (the “City”) that a special question election has been called and will be held on November 3, 2026, for the purpose of submitting to the qualified electors of the City the following proposition:

Shall the following be adopted:

Shall the following Ordinance be adopted? “An Ordinance of the City of El Dorado, Kansas, prohibiting the installation and operation of High Impact Data Centers and Tier 2 and Tier 3 battery energy storage systems to protect the health, safety, and welfare of the residents of El Dorado, Kansas.”

IT IS IMPORTANT FOR EACH QUALIFIED VOTER TO NOTE THAT YOUR BALLOT CANNOT BE COUNTED UNLESS YOU TAKE THE APPROPRIATE STEPS:

To vote in favor of any question submitted on this ballot, press the word “YES” on the voting machine or completely darken the oval to the left of the word “YES” on the paper ballot. To vote against it, press the word “NO” on the voting machine or completely darken the oval to the left of the word “NO” on the paper ballot.

☐ YES

☐ NO

The polls will open at []:00 A.M. and will close at []:00 P.M., on November 3, 2026, the election day. The voting places in the City and the area each voting place will serve will be as follows:

[To be updated by the County Clerk as necessary]

Voters Residing In Precinct

Will Vote At

Location

The election will be conducted by the officers and/or persons provided by law for holding elections, and the method of voting will be by ballot. Registered voters are eligible to vote by advance voting ballot upon application to the County Clerk of Butler County, Kansas, set forth below pursuant to K.S.A. 25-1117 *et seq.*

ADDITIONAL INFORMATION

General

General. The following additional information is provided by the City with respect to the impact of this ballot question. Passage of this ballot proposition would authorize the adoption of an Ordinance of the City of El Dorado, Kansas, prohibiting the installation and operation of High Impact Data Centers and Tier 2 and Tier 3 battery energy storage systems to protect the health, safety, and welfare of the residents of El Dorado, Kansas as described therein. The Ordinance, if approved by the electors of the City, shall become effective after its publication, and shall remain in effect **ten (10)** years after its effective date unless otherwise repealed or amended according to K.S.A. 12-3013(d), as amended.

ELECTION INFORMATION

The election officer conducting the election will be the County Clerk of Butler County, Kansas, whose address is: 205 W. Central, El Dorado, Kansas 67042.

DATED: _____, 2026.

Tatum Stafford, County Clerk
Butler County, Kansas

AFFIDAVIT

STATE OF KANSAS)
) ss:
COUNTY OF BUTLER)

The undersigned, acting as election officer for Butler County, Kansas (the “County”) pursuant to the laws of the State of Kansas, being of lawful age, first being duly sworn, on oath states:

Pursuant to K.S.A. 10-120, the attached Notice of Election was published on the website of the County election office, not less than 21 days prior to the election described in such Notice and remained on the website until the day after such election.

WITNESS my hand and official seal on _____, 2026.

(Seal)

Tatum Stafford, County Clerk
Butler County, Kansas

The foregoing instrument was subscribed and sworn to or affirmed before me on this ____ day of _____, 2026, by Tatum Stafford, County Clerk, Butler County, Kansas.

(Seal)

Notary Public

BALLOT CERTIFICATE

STATE OF KANSAS)
) ss:
COUNTY OF BUTLER)

I, the undersigned County Clerk of Butler County, Kansas, do hereby certify that attached below is a true and correct copy of the ballot label used at the special question election held on November 3, 2026, in the City of El Dorado, Kansas, on the proposition set forth in the ballot; and that the judges and clerks duly qualified by taking their respective oaths before assuming their duties at the election.

WITNESS my hand and official seal on _____, 2026.

(SEAL)

Tatum Stafford, County Clerk
Butler County, Kansas

[Affix copy of ballot label]

STATE OF KANSAS
OFFICIAL BALLOT

THE CITY OF EL DORADO, KANSAS

NOVEMBER 3, 2026

NOTICE

If you deface or make a mistake and wrongfully mark any ballot, you must return it to the election board and receive a new ballot.

TO VOTE IN FAVOR OF ANY QUESTION SUBMITTED ON THIS BALLOT, PRESS THE WORD “YES” ON THE VOTING MACHINE OR COMPLETELY DARKEN THE OVAL TO THE LEFT OF THE WORD “YES” ON THE PAPER BALLOT. TO VOTE AGAINST IT, PRESS THE WORD “NO” ON THE VOTING MACHINE OR COMPLETELY DARKEN THE OVAL TO THE LEFT OF THE WORD “NO” ON THE PAPER BALLOT.

SHALL THE FOLLOWING BE ADOPTED?

SHALL THE FOLLOWING ORDINANCE BE ADOPTED? “AN ORDINANCE OF THE CITY OF EL DORADO, KANSAS, PROHIBITING THE INSTALLATION AND OPERATION OF HIGH IMPACT DATA CENTERS AND TIER 2 AND TIER 3 BATTERY ENERGY STORAGE SYSTEMS TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF EL DORADO, KANSAS.”

☐ YES

☐ NO

**STATE OF KANSAS
OFFICIAL BALLOT**

EL DORADO, KANSAS

QUESTION SUBMITTED

SPECIAL QUESTION ELECTION

NOVEMBER 3, 2026

BUTLER COUNTY, KANSAS

STATE OF KANSAS)
) ss:
COUNTY OF BUTLER)

Tatum Stafford, County Clerk
Butler County, Kansas

**PETITION FOR ORDINANCE PROHIBITING HIGH IMPACT DATA
CENTERS AND TIER 2 AND TIER 3 BATTERY ENERGY STORAGE
SYSTEMS IN THE CITY OF EL DORADO, KANSAS**

1) High Impact Data Centers present substantial risks to the public health, safety, and welfare of the residents of El Dorado, Kansas, and threaten the stability and capacity of local and regional infrastructure, especially utility infrastructure. Even when closed-loop cooling systems are used, these facilities require significant quantities of water for the initial filling of the cooling loops, ongoing additional water to make up for this water use, and additional routine water system maintenance and chemical treatment. This demand, combined with extreme electrical demand that can overload local and regional power grids, imposes substantial strain on local and regional utilities and competes directly with the essential needs of existing residents and other existing users in the community.

2) Battery Energy Storage Systems ("BESS") present substantial risks and dangers to the public health, safety, and welfare of the residents of El Dorado, Kansas. These risks and dangers include thermal runaway, which is a chain reaction caused by the overheating of battery cells, which can lead to unnatural fires or explosions. Thermal runaway may also release toxic gases, which also pose a serious health hazard to the residents of El Dorado, Kansas. The operation of BESS technology could also present hazards of cascading cell service failures and flammable gas accumulation. Multiple incidents have occurred nationally and internationally that clearly demonstrate the risk associated with BESS.

The undersigned electors of the City of El Dorado, Kansas, hereby submit this Petition for a proposed ordinance prohibiting High Impact Data Centers and Battery Energy Storage Systems pursuant to K.S.A. § 12-3013 and respectfully request that the governing body of the City of El Dorado, Kansas to pass the following ordinance without alteration or submit the same to a vote of the electors.

BALLOT QUESTION: "Shall the following ordinance be adopted? "An Ordinance of the City of El Dorado, Kansas prohibiting the installation and operation of High Impact Data Centers and Type 2 and Type 3 battery energy storage systems to protect the health, safety, and welfare of the residents of El Dorado, Kansas."

[End of Page; the proposed Ordinance begins on the following page]

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EL DORADO, KANSAS PROHIBITING THE INSTALLATION AND OPERATION OF HIGH IMPACT DATA CENTERS AND TIER 2 AND TIER 3 BATTERY ENERGY STORAGE SYSTEMS TO PROTECT HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF EL DORADO, KANSAS.

WHEREAS, High Impact Data Centers are rapidly evolving land use that has only recently begun to be proposed in jurisdictions across the United States, and the suitability and impact of such facilities on the City of El Dorado, Kansas is unstudied and is likely to generate many negative environmental and health impacts, including industrial-scale disruption to existing land uses, current residents, and the environment;

WHEREAS, emerging forms of High Impact Data Center development involve significant electrical and water consumption, causing higher demand leading to additional strain on regional infrastructure that has not been adequately evaluated or addressed;

WHEREAS, High Impact Data Centers generate significant noise and heat, which will also strain municipal services and negatively impact the quality of life of residents of the City of El Dorado, Kansas;

WHEREAS, Battery Energy Storage Systems ("BESS") are being deployed with increasing frequency in connection with renewable energy generation facilities, grid stability projects, and commercial and industrial applications; and

WHEREAS, documented BESS accidents have resulted in explosions, prolonged fires, toxic gas emissions, and injuries to emergency response personnel.

WHEREAS, Tier 2 and Tier 3 BESS present significant fire, explosion, and thermal runaway risks that endanger the City of El Dorado, Kansas, particularly first responders, properties near BESS, and other residents of the City of El Dorado, Kansas.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EL DORADO, KANSAS:

SECTION 1. The purpose of this Ordinance is to protect the public health, safety, and welfare of the residents of the City of El Dorado, Kansas, by prohibiting the installation and operation of High Impact Data Centers and Tier 2 and Tier 3 Battery Energy Storage Systems ("BESS").

SECTION 2. For the purposes of this Ordinance, the following terms shall have the meanings indicated:

- A.** "High Impact Data Center" means a principal use consisting of one or more buildings, structures, or facilities whose primary purpose is the housing, operation, and maintenance of computer servers, data storage devices, networking equipment, and associated infrastructure (including but not limited to cooling systems, backup power generators, substations, and high-capacity electrical and water systems) for the bulk processing, storage, or transmission of electronic data, that requires a peak electrical load exceeding ten (10) megawatts, or a daily water draw exceeding one hundred thousand (100,000) gallons. This term includes server

farms, colocation facilities, AI training facilities, cryptocurrency mining operations, and similar high-density computing facilities, provided however, that High Impact Data Center does not include accessory data processing equipment that is incidental and subordinate to the primary use of a building (e.g., ordinary office servers, school computer labs, or manufacturing process controls).

- B. "Battery Energy Storage System" or "BESS" means:** An engineered facility (inclusive of all ancillary facilities required to interconnect and operate the facility) that is capable of charging batteries from an electrical transmission system, storing the electrical energy, and discharging the electrical energy to later reenergize the same system and does not include a powerplant or other manner of generating electricity for distribution and storage. BESS may also include one or more devices, when assembled together, are capable of storing energy to supply electrical energy at a future time, provided however, that BESS does not include a stand-alone twelve-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1, Tier 2, or Tier 3 battery energy storage system as follows:

(i) Tier 1 battery energy storage systems have an aggregate energy capacity less than or equal to 80 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology. All Tier 1 battery energy storage systems located on residential properties shall comply with all applicable codes (building, fire, property, etc.) as they may currently be in effect or hereafter amended in the City of El Dorado.

(ii) Tier 2 battery energy storage systems have an aggregate energy capacity between 81 and 600 kWh or are comprised of more than one energy storage system technology in a room or enclosed area.

(iii) Tier 3 battery energy storage systems have an aggregate energy capacity greater than 600 kWh and, if in a room or enclosed area, consist of only one energy storage system technology. An engineered facility (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 BESS includes all equipment required for the system to operate, including but not limited to batteries, battery chargers, battery management systems, controls, power conditioning systems, inverters, associated electrical equipment, fire suppression systems, and thermal management systems.

SECTION 3. No person, firm, corporation, or other entity shall construct, install, operate, maintain, or cause to be constructed, installed, operated, or maintained, any High Impact Data Center in the jurisdictional boundaries City of El Dorado, Kansas.

SECTION 4. No person, firm, corporation, or other entity shall construct, install, operate, maintain, or cause to be constructed, installed, operated, or maintained, any Tier 2 or Tier 3 BESS in the jurisdictional boundaries City of El Dorado, Kansas.

SECTION 5. Multiple Tier 1 BESS shall not be installed or operated in a configuration or proximity that would function to effectively create a Tier 2 or Tier 3 BESS. The following factors shall be considered in determining whether multiple Tier 1 BESS constitute an effective Tier 2 or Tier 3 BESS:

- (i) Whether the total aggregate capacity exceeds the thresholds defined in Section 2;
- (ii) Whether systems that are located within 50 feet of each other on the same parcel or on

- adjacent parcels under common ownership or control;
- (iii) Whether systems share electrical components, fire suppression systems, or control systems;
 - (iv) Whether systems are designed to function as an integrated unit; or
 - (v) Whether systems are managed through a common energy management system or controller.

SECTION 6. The prohibition set forth in this Ordinance shall apply to all zoning districts and all land uses within the City of El Dorado, Kansas, including but not limited to, residential, commercial, industrial, institutional, and public facility zones as defined in the applicable zoning ordinances and resolutions, as currently in effect and as may hereafter be amended from time to time.

SECTION 7. Any violation of Section 3 or Section 4 of this Ordinance shall be subject to the civil and criminal penalties as set forth in Article 15 of the City of El Dorado Zoning Regulations.

SECTION 8. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. Similarly, if any exemption, variance, or procedural provision is found invalid, it is the express intent that the core prohibitions shall remain in effect to the maximum extent permitted by law.

SECTION 9. Where the requirements of this Ordinance impose a different restriction or requirement than imposed by other City of El Dorado Ordinances, or other applicable rules or regulations, the requirements of this Ordinance shall prevail.

SECTION 10. This Ordinance shall take effect and be in force either upon publication as described by K.S.A. § 12-3007, or upon approval by the electors pursuant to K.S.A. § 12-3013, as applicable.

CITY OF EL DORADO, KANSAS

Bill Young, Mayor

[SEAL]

ATTEST:

Emerald Veatch, City Clerk

APPROVED AS TO FORM:

_____, City Attorney