RESOLUTION NO. 2026- 17

A RESOLUTION PROVIDING FOR A TEMPORARY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS RELATING TO THE ESTABLISHMENT, OPERATION OR EXPANSION OF BATTERY ENERGY STORAGE SYSTEM FACILITIES WITHIN THE UNINCORPORATED AREA OF LEAVENWORTH COUNTY; AND DIRECTING THE DEVELOPMENT OF REGULATIONS FOR BATTERY ENERGY STORAGE SYSTEM FACILITIES FOLLOWING A PAUSE.

WHEREAS, The Leavenworth County Zoning Regulations ("Zoning Regulations") presently do not directly define and address a land use associated with "Battery Energy Storage System Facilities," as herein defined; and

WHEREAS, Kansas statutes authorize counties to establish land development regulations to address their local development concerns and needs; and

WHEREAS, there has been an increased nationwide interest in Battery Energy Storage System Facility development and impacts; and

WHEREAS, on May 13, 2026, the Board of County Commissioners adopted a ninety (90) day moratorium on the acceptance, processing, and consideration of applications relating to data centers, battery energy storage systems, and cryptocurrency mining facilities which expired on August 10, 2026; and

HEREAS, on August 12, 2026, the Leavenworth County Planning Commission considered and tabled discussion of proposed zoning regulation amendments pertaining to Data Centers and Battery Energy Storage System Facilities and related matters; and

WHEREAS, due to a number of impacts that Battery Energy Storage System Facilities have or might have on nearby property owners, the region, and also future development, the Board of County Commissioners recognizes that a need exists to further consider, and potentially adopt, additional land development regulations and/or standards that may pertain to such property uses; and

WHEREAS, no applications for proposed development have been submitted with respect to Battery Energy Storage System Facilities within the unincorporated areas of Leavenworth County; and

WHEREAS, the Board of County Commissioners desires to provide adequate time for the Leavenworth County Planning and Zoning Commission to properly evaluate and implement the aforementioned actions by providing for the suspension of acceptance or processing of applications or permits pertaining or related to the establishment, construction, operation or expansion of any Battery Energy Storage System Facility in the interim period defined in this Resolution; and

WHEREAS, pursuant to K.S.A. 12-741, *et seq.*, and K.S.A. 19-101 *et seq.*, Leavenworth County has the police power and statutory authority to regulate the conduct of development through this Resolution. This moratorium is a legislative action.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEAVENWORTH COUNTY, KANSAS that:

1. Within the unincorporated area of Leavenworth County, the consideration and issuance of any Special Use Permits for applications submitted after this Resolution's effective date that would include or involve Battery Energy Storage Facilities is temporarily suspended as indicated within this Resolution. For purposes of this Resolution, Battery Energy Storage System Facilities shall be generally construed as one or more buildings, facilities or other sites that are constructed, reconstructed, enlarged, remodeled, leased or used to principally house electrochemical devices that charge, or collect, energy from the grid or a generation facility, store that energy, and then discharge that energy at a later time to provide electricity or other grid services.

2. The Leavenworth County Planning and Zoning Department and Planning Commission are hereby directed to suspend accepting or acting upon any application or permit received for operation, development, erection and/or construction of a Battery Energy Storage System Facility or related activities and components associated with such use in the unincorporated area of Leavenworth County for the period stated within this Resolution.

3. Leavenworth County staff and the Leavenworth County Planning Commission are directed to review the existing Zoning Regulations. The Leavenworth County Planning and Zoning Department and Planning Commission may then bring forward any proposed Zoning Regulation amendments pertaining to Battery Energy Storage System Facilities and related matters within the Zoning Regulations pursuant to K.S.A. 12-741 *et seq.* If deemed appropriate by the Leavenworth County Planning Commission, potential amendments pertaining to Battery Energy Storage System Facilities and related matters may be proposed to be made to the Leavenworth County Comprehensive Plan.

4. The interim development control imposed by this Resolution may be extended, amended, or terminated earlier than its expiration date by subsequent resolution approved by the Board of County Commissioners.

5. If any section of this Resolution shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this resolution as a whole or any part or provision thereof, other than the part so declared invalid or unconstitutional.

6. This Resolution shall take effect upon its adoption and publication once in the official County newspaper. The Resolution shall remain in effect until the County adopts zoning regulations or amendments to its existing zoning regulations addressing Battery Energy Storage System Facilities and related matters pursuant to K.S.A. 12-741 *et seq.* The County Clerk is directed to publish this Resolution once in the official county newspaper.

ADOPTED this ___ day of September, 2026

Mike Stieben, Chairman

ATTEST:



Fran Keppler, Leavenworth County Clerk

Jeff Culbertson, Member

Vanessa Reid, Member

absent

Willie Dove, Member

Mike Smith, Member