

ORDINANCE NO. 325

**AN ORDINANCE RELATING TO BATTERY ENERGY STORAGE;
REPEALING ORDINANCES IN CONFLICT; PROVIDING FOR SEVERANCE;
PROVIDING A PENALTY; AND PROVIDING FOR PUBLICATION**

WHEREAS, battery storage within the Town limits constitutes a nuisance and threat to the health, welfare and safety of the citizens; and

WHEREAS, battery storage within the confines of the Town creates a danger of fire or explosion and is a threat to the health, welfare and safety of the citizens; and

WHEREAS, the Town Council finds that storage of batteries within the Town should be banned for the protection of the health, welfare and safety of the citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FULTON:

Section 1. "Battery energy storage facility" includes lithium-ion battery energy storage and a facility or equipment used to support the commercial operation of lithium-ion battery energy storage, including an underground or aboveground electrical transmission or communications line, or an electric transformer. It also includes other types of batteries that are high energy storage of electrical energy. This does not include an individual's or business's storage of spare batteries, including those intended for emergency power systems such as uninterruptible power supplies (UPS), portable power stations, solar battery backups, or generator-start batteries, provided such storage does not constitute a threat.

Section 2. It shall be unlawful for any individual, partnership, firm company, corporation or entity to own, have, maintain, construct or develop a battery energy storage facility within the Town of Fulton.

Section 3. All previously adopted rules, regulations, policies, and ordinances in conflict with this Ordinance are hereby repealed.

Section 4. If any provision, section, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the Town Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provision of this Ordinance are declared severable for that purpose.

Section 5. Any person partnership, firm company, corporation or entity who violates this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject

to a fine not exceeding five hundred dollars (\$500.00). Each day a violation of this Ordinance occurs shall constitute a separate offense. The culpable mental state required by Chapter 6.02, Texas Penal Code, is specifically negated and dispensed with and a violation is a strict liability offense.

Section 6. This Ordinance shall be published by publishing the caption thereof in the official newspaper with a statement that the public may view the Ordinance in the Office of the City Secretary. This Ordinance shall take effective upon its publication.

PASSED and **APPROVED** this the _____ day of _____ 2025.

TOWN OF FULTON

Kelli Cole, Mayor

ATTEST:

Stephanie Garcia, City Secretary