

**GREENWOOD TOWNSHIP
ORDINANCE 2023-2
INDUSTRIAL UTILITY BATTERY ENERGY STORAGE SYSTEM**

1. Introduction

A. Intent

This Ordinance is hereby adopted and enacted in order for and to maintain the health, safety and welfare of the people, property, animals and bodies of water located in the Township of Greenwood, St. Clair County, Michigan, from the hazards of improper storage and/or disposal of harmful batteries.

B. Purpose/Scope

The purpose of this Ordinance is to establish minimum requirements and regulations of any Applicant/Developer/Owner engaged in the construction, erection, placement, location, maintenance, modification, operation or decommissioning of a battery energy storage or disposal site in a manner that promotes economic development and ensures the protection of health, safety and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. The designation of properties suitable for location, construction and operation shall conform to this Ordinance.

2. Definitions

These definitions are created for the sole purpose of this Ordinance only.

Battery(ies). A single cell or a group of cells connected together electronically in a series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purpose of this Ordinance, batteries utilized in consumer products are excluded from these requirements.

Water. Any body of water, including but not limited to a ditch, creek, stream, river, lake, pond, water well or aquifer located in or traversing the Township and from which the residents of the Township drink, bathe, or water their animals or crops.

Utility Scale Battery Energy Storage System ("BESS"). One or more batteries (not including stand-alone 12-volt car batteries), assembled together, capable of storing energy in order to supply electrical energy at a future time, including but not necessarily limited to, the power grid, electrical and/or energy companies, corporations, facilities and/or commercial and/or industrial entities.

3. Storage

A. A BESS is classified as a Tier I or Tier 2 Battery Storage System:

- i. **Tier I** has an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area and intended to connect to the commercial electrical grid supply, consists of only single energy storage system technology.

ii. **Tier 2** has an aggregate energy capacity greater than 600 kWh or comprised of more than one storage battery technology in a room or enclosed area.

B. Storage of any batteries must conform with OSHA regulations contained in 29 CFR 1910.305(j)(7) which requires ventilation of gases from storage batteries to prevent the accumulation of explosive mixtures; as well as the laws of the State of Michigan.

4. Setbacks and Height

A. Any proposed storage facility must be One Thousand Three Hundred Twenty (1,320') feet from all property lines.

B. Height of any BESS buildings and associated structures is twelve (12) feet.

5. Construction Codes

A. In addition to the standards herein established, all construction will also strictly comply with all OSHA/MIOSHA standards, as well as the laws of the State of Michigan and applicable federal laws. BESS projects are only permitted through the issuance of an approved Application and subject to the National Electric Code, International Fire Code, and the Special Land Use Permit Application requirements set forth herein.

B. A geotechnical boring and soil report must be obtained by an independent engineer, approved by the Township, to review and comment on the subsurface conditions of the proposed site indicating whether or not the site will provide proper support for the BESS. This will be conducted at the cost of the Applicant and prior to the issuance of a BESS Construction Permit.

6. Special Use Permit

A Special Land Use Permit Application is required by the Township. Consideration of any Permit will only be given to an already existing Industrial Utility zoned property. The Applicant shall provide seven (7) copies of the proposed project construction documents (plans and project manual) to the Greenwood Township Planning Commission, including all information required in this subsection, and demonstrating compliance with all standards of this section:

A. The size, shape and components of any battery container and detailed description of its function and maintenance, and a description of how the storage and handling of batteries complies with OSHA regulations.

B. A site plan, drawn to scale and conforming to Section 19.06, shall show:

i. Existing structures, driveways; adjacent structures within 100 feet; property lines (including identification and zoning of adjoining properties).

ii. The planned location of each BESS.

iii. Guy lines and anchor bases, if proposed.

- iv. Set back to all property lines shall comply with the Township Ordinance.
 - v. In the event the storage unit/vault is in the ground, a complete detailed drawing, including size of unit/vault, depth and materials used for the unit/vault, must be included.
 - vi. Public and private access roads and turnout locations.
 - vii. Substations, electrical cabling from the BESS to the substation, ancillary equipment, and third party transmission lines related to the project.
 - viii. Operations and maintenance building(s).
 - ix. Layout of all structures within the geographical boundaries of any applicable setback.
 - x. Location of any construction staging areas, including concrete batch plants.
 - xi. Size and location of any roads, lakes, ponds or streams touching said parcel of land
 - xii. Information regarding exterior lighting proposed for the site including cut/data sheets.
 - xiii. BESS Project Summary, to the extent available:
 - a. A general description of the project
 - b. The potential equipment manufacturers
 - c. Types of BESS(s)
 - d. Numbers of Bess(s)
 - e. Name plate storing capacity of each BESS
 - f. Description of the Application Owner/Operator, including respective business structure
 - xiv. An electrical diagram detailing battery energy storage systems layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
 - xv. A preliminary equipment specification sheet that documents the proposed BESS components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a Building Permit.
 - xvi. A drainage plan prepared by a registered civil engineer.
- C. An outline of the BESS Emergency Operations Plan.
 - D. Storm Water Pollution Prevention Plan.
 - E. Documentation ensuring that the BESS shall not have a negative impact on the health and safety of humans or animals, or any adverse effect on water or land.
 - F. Demonstration of compliance with the Ecological Compliance Assessment Tool. These laws require state agencies and units of local governments to consider

the potential adverse effects of proposed actions on Michigan endangered and threatened species.

- G. Demonstration of compliance with all applicable provisions of NFPA (National Fire Protection Association) and current State Energy Codes.
- H. All matters relating to the proposed BESS regarding safety and permit timeframe and abandonment.
- I. Warning signs concerning voltage must be placed at all entrances of the BESS. A sign shall also be posted providing the name(s) of operator(s) and a phone number in case of an onsite emergency. No other signage will be allowed except for that required to preserve public and employee safety, and that required by federal, state, county and township regulations.
- J. The BESS shall not produce electromagnetic interference that exceeds any applicable standards established by federal and state laws and regulations and/or adversely affects normal operation of radio, television, internet or cellular telephone service.
- K. The BESS shall not produce noise that exceeds 45 dBA Lmax as measured at the property lines at any given time.
- L. All power transmission lines to any building or other structure shall be located underground and comply with the National Electric Code and applicable laws and regulations.
- M. All buildings and structures, of any kind, mechanical equipment and apparatus, shall be enclosed by an eight (8') foot standard chain link fence (as determined by DNR requirements).
- N. The entire project shall be screened from residential/agricultural districts and public rights-of-way by a greenbelt (consisting of three staggered rows of evergreen trees chosen from the list in Section 17.16.3.a, not less than 5 feet tall at time of planting, with 15 feet spacing between the trees in each row). The Planning Commission may require supplemental plantings of small evergreens and/or deciduous shrubs. Planting requirements may be reduced by the Planning Commission (but not eliminated) only when existing natural vegetation accomplishes a substantial portion of the screening requirement. The greenbelt must be seasonally maintained and dead trees must be replaced as soon as possible.
- O. The Applicant shall, and must at all times, maintain a current general liability policy covering bodily injury and property damage with limits appropriate to the size of the BESS facility. Three copies shall be provided to Greenwood Township with proof of payment of premiums.
- P. The BESS operator shall maintain the surrounding premises in good repair and in working condition at all times. Vegetation in the area around the BESS shall not exceed six (6") inches in height at any time in order to reduce the potential for fire.

- Q. Sufficient documentation (including financial statement, Irrevocable Letter of Credit, surety bond, etc.) showing the Applicant has the capability and resources to complete the project as proposed and maintain it throughout its life cycle. Such financial assurance shall amount to 110% of the estimated BESS project cost.
- R. Any other information requested by the Planning Commission that is necessary to determine compliance with this Ordinance. The Applicant must conform to, and comply with, all applicable federal, state, county and township laws, regulations, rules, ordinances and requirements as well as any applicable industry standards.

7. Operations and Maintenance

The Township shall be notified, in writing, within ninety (90) days by the BESS project operator or property owner (whichever entity/party holds the development and building permits) in the event the project is sold or otherwise transferred to another entity/party and/or the current owner/operator abandons the project.

8. Fire Safety Compliance Plan

A Fire Safety Compliance Plan shall be given to the Township and the local fire department(s) upon approval of the Special Use Permit Application, at the completion of all installations/construction, but before initiation of the BESS, documenting and verifying that the BESS and its associated controls and safety systems are in compliance with all State and Federal Codes.

9. Emergency Operations plan

An updated copy of the Emergency Operations Plan shall be given to the Township and the local fire departments upon approval of the Special Use Permit Application and this Plan shall be updated annually. This Plan shall include:

- A. Procedures for safe shutdown, de-energizing or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock and personal injuries, and for safe start-up following cessation of emergency conditions for the BESS Operator.
- B. Procedures for inspection and testing of associated alarms, interlocks and controls.
- C. Procedures to be followed in response to notifications from the BESS operator personnel, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
- D. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts or other potentially dangerous conditions. Procedures can include sounding an alarm, notifying the fire department, evacuating personnel, de-energizing equipment and controlling and extinguishing the fire.

- E. Response consideration similar to a Material Safety Data Sheet (“MSDS”) that will address response safety concerns and extinguishment when a MSDS is not required.
- F. Procedures for handling, removing and discarding BESS equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged BESS equipment from the facility.
- G. Other procedures as determined necessary by Greenwood Township, or its authorized agent, to provide for the safety of occupants, neighboring properties, and emergency responders.

10. Validity of Permit

If the actual onsite construction has not started within six (6) months of the approved application, the permits are no longer valid and all fees are forfeited.

If the Applicant/Owner/Operator fails to materially comply with any of the above-provisions, their non-compliance shall constitute a default or violation under this Ordinance.

11. Violation or Default of Permit, Punishment/Revocation

Any violation or default of this Ordinance shall be an offense punishable by a fine of Five Hundred (\$500.00) Dollars. Each violation shall be a separate offense. Each day a violation occurs or continues shall be a separate offense.

If the BESS is declared to be unsafe by the Township or its authorized agents by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment, and declared a public safety issue, shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in this Ordinance.

If the Applicant/Owner/Operator fails to materially comply with any of the provisions of this section, it shall constitute a default or violation under this Ordinance.

Prior to the Township’s implementation of default upon the Applicant/Owner/Operator, the Township shall provide written notice to the Applicant/Owner/Operator setting forth the alleged default(s) and provide a reasonable time period (not to exceed thirty (30) days), for good faith negotiation to resolve the alleged default(s) or violation(s).

Due to the nature and extreme dangers as outlined in this Ordinance, any continued violation of this Ordinance lasting more than thirty (30) days will be considered violation or default of this Ordinance, and the Township reserves the right to revoke the special land use approval and pull all permits previously approved and require the Applicant/Owner/Operator to decommission and remove all batteries, structures, buildings, vaults, electrical, etc. and return the land to its original condition, both above and below ground within sixty (60) days. This removal notice will be given in writing.

12. Decommissioning

- A. Prior to the issuance of construction permits, a financial surety bond (letter of credit, bond, escrow account or reasonable assurance as approved by Greenwood Township) must be provided to the Township for 150% of the estimated costs of decommissioning. The estimate of the decommissioning cost shall be updated and reviewed every three (3) years. The required bond shall be through a US based company with AAA rating from Moody's investment service or equivalent rating. A full and complete original of said financial surety, which is payable to Greenwood Township, shall be provided to the Township.
- B. Prior to construction, the BESS shall provide a decommissioning plan. Decommissioning plans shall meet the following standards:
- i. The plan shall require the removal of all batteries, electrical equipment, poles, piles, foundations and conduits (above and below ground). Access roads, fencing and other equipment may remain only if they can be shown to be consistent with the future use of the property. Decommissioning is the responsibility of the Owner/Operator of the BESS facility.
 - ii. The decommissioning plan shall include an estimate of the decommissioning costs and salvage value, certified by a professional engineer or other qualified professional, reasonably acceptable to the Township, which shall be updated and submitted to the Township every three (3) years.
 - iii. The decommissioning plan shall be binding upon the Owner/Operator and any and all of their successors, assigns, transferees, heirs, representatives and agents.
 - iv. The decommissioning plan must meet industry standards as part of the application process.
- C. If the BESS ceases to operate or is abandoned for a period of six (6) months, or is deemed by the Zoning Administrator or Building Official to be unsafe or not consistent with Code, the current landowner/operator shall repair and restore the system to good working order within a reasonable time set by the Zoning Administrator or Building Official. If the BESS is no longer operating or no longer in compliance with federal, state or local Codes, the current landowner/operator shall remove the system in its entirety. This shall include removing posts, equipment, vaults, foundations and other items so that the ground is restored to its preconstruction state and is ready for development as another land use.

13. Indemnification

The Applicant/Owner/Operator of the BESS project shall defend, indemnify and hold harmless Greenwood Township and its officials from and against any and all claims, demands, losses, lawsuits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including attorney fees, without limitation, arising out of acts of

omission of the Applicant/Owner/Operator associated with the construction and/or operation of the BESS project.

14. Training

The Applicant/Owner/Operator shall pay for the training of local fire department(s) as to the special chemicals contained in the batteries at the facility and the proper methods to put out any fire or to properly contain any spills or leaching.

15. Taxes

If at any time there is a change in the formula or calculation used for real and/or personal property taxes as it relates to the BESS which would result in Greenwood Township, the Yale Public Schools, and/or other schools, to receive less tax revenue or no tax revenue from the BESS, the BESS shall pay directly to the Township, Yale Public Schools and/or other schools, an amount in lieu of said real and/or personal property taxes based upon the tax structure for BESS, or payment in lieu of taxes, or a formula developed by the State of Michigan, to be determined at the time the permit is applied for.

16. Severability

The various parts, sections and clauses of this Ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

17. Legal Authority

This Ordinance shall have application to and regarding all conditions, matters, uses and activities as described and/or identified herein. However, it shall not be interpreted or applied to supersede and/or override laws, regulations and/or codes which are exclusive to the U.S. Federal Government and/or the State of Michigan.

18. Publication

This Ordinance shall be published in full, in a newspaper of general circulation in the Township of Greenwood, within fifteen (15) days after its adoption.

19. Effective Date

This Ordinance shall take effect thirty (30) days upon publication as set forth in Section 14, in the manner provided for in the Michigan Zoning Enabling Act Number 110 of 2006, as amended.

20. Adoption

This Ordinance was adopted by the Greenwood Township Board at a meeting held on Tuesday, December 12, 2023.

CERTIFICATE OF TOWNSHIP CLERK

I, Sonya O'Brien, Greenwood Township Clerk, hereby certify that the foregoing constitutes a true and complete copy of the Greenwood Township Industrial Utility Battery Energy Storage Ordinance presented at a Planning Commission hearing on November 13, 2023 and adopted by the Township Board of Greenwood Township, St. Clair County, Michigan, at a regular meeting held on November 12, 2023 by the following vote:

Motion by: Sonya O'Brien

Supported by: Eric Krikorian

Ayes: Sonya O'Brien, Eric Krikorian, Doug Klowicki, Marvin Roberts

Nays: 0

Absent: Rebecca Ramsey

Motion: Carried

Sonya O'Brien

Greenwood Township Clerk

- 1.) Date of Public Hearing — October 18, 2023
- 2.) Date of Adoption by Township Board — December 12, 2023
- 3.) Date of Publication — December 20, 2023
- 4.) Date ordinance shall take effect. — January 18, 2024

The Greenwood Township Board ordered Notice of Adoption and Summary to be published one time in the Yale Expositor Newspaper on December 20, 2023. A true and complete copy of the above Ordinance may be purchased or inspected at the offices of the Township Clerk.