Gustin Township
Ordinance No 1 of 2025

An ordinance to amend the Zoning Ordinance to address Battery Energy Storage Systems.

Gustin Township, Alcona County, Michigan, ordains:

Section 1: Amendment to Article 2 of the Gustin Township Zoning Ordinance

Section 2.1 (Definitions) of the Gustin Township Zoning Ordinance is hereby amended to add the following definitions:

Battery Energy Storage System Definitions:

A. ***Battery Energy Storage System***. One (1) or more devices, assembled together, capable of storing and discharging electricity primarily intended to supply electricity to a building or to the electrical grid. This includes, but is not limited to, the following: battery cells; enclosures and dedicated-use buildings; thermal, battery, and energy management system components; inverters; access roads; distribution, collection, and feeder lines; wires and cables; conduit; footings; foundations; towers; poles; crossarms; guy lines and anchors; substations; interconnection or switching facilities; circuit breakers and transformers; overhead and underground control, communications and radio relay systems, and telecommunications equipment; utility lines and installations; and accessory equipment and structures.

B. ***Battery Energy Storage System, Off-Site.*** A Battery Energy Storage System (BESS) for the primary purpose of Off-Site use through the electrical grid.

C. ***Battery Energy Storage System, On-Site***. A Battery Energy Storage System (BESS) that is intended primarily to serve the electricity needs of the applicant property but may, at times, discharge into the electric grid.

D. ***Non-Participating Lot(s)***. One (1) or more lots for which there is not a signed lease or easement for development of a Battery Energy Storage System associated with the applicant project.

E. ***Participating Lot(s)***. One (1) or more lots under a signed lease or easement for development of a Battery Energy Storage System associated with the applicant project.

F. ***Repowering***. The process of reconfiguring, supplementing, or replacing some or all of the system components to increase the nameplate capacity (measured in megawatts).

Section 2: Amendment to Article 4 of the Gustin Township Zoning Ordinance

Section 4.0 (Table of Permitted Uses and Special Land Uses) of the Gustin Township Zoning Ordinance is hereby amended as follows:

TABLE OF PERMITTED USES & SPECIAL LAND USES					
R = Permitted by right S = Permitted with a Special Land Use Permit *Indicates that supplemental development standards apply (Article 7).	A-R	R	F-R	C	I
UTILITIES/ENERGY					
*Battery Energy Storage System, Off-Site**	S				S
Battery Energy Storage System, On-Site	P	P	P	P	P
Electrical Transformer Stations & Substations (with service storage yards)				S	
Essential Services	R	R	R	R	R
Gas Regulator Stations	R		R	R	R
Heating & Electric Power Generating Plants					S
Public Utility Facilities (without storage yards)	S			R	R
Public Utility Facilities (with storage yards)	S				R
*Solar Energy System, Commercial**	S				S
Solar Energy System, Private	R	R	R	R	R
*Wind Energy Facilities and Anemometer Towers (Commercial)**	S			S	S
*Wind Energy Systems (small on-site)**	R	R	R	R	R

Section 3: Amendment to Article 7 of the Gustin Township Zoning Ordinance

Section 7.32 (Battery Energy Storage Systems, Off-Site - BESS) of the Gustin Township Zoning Ordinance is hereby added as follows:

A. Purpose.

The purpose of this Section is to provide for the development, installation, and construction of off-site battery energy storage systems subject to reasonable conditions that will protect the character of the Township and the nearby property owners and ensure the health, safety, and welfare of Township residents.

B. Scope.

This Section applies to Off-Site Battery Energy Storage Systems that are stand-alone facilities or are in conjunction with another use such as Solar Energy Facilities or Wind Energy Facilities. Battery Energy Storage Systems shall comply with this Section, the site plan review standards in **Section 5.6** (Site Plan Approval Standards) and the Special Land Use standards in **Section 6.3 (Special Land Use Approval Standards).**

C. Setbacks and Height.

1. **Setbacks**. The setbacks of all buildings and components of Battery Energy Storage Systems shall be at least two hundred (200) feet from the road right-of-way and all lot lines of non-participating lots and at least five hundred (500) feet from residences and occupied community buildings on non-participating lots.

2. **Height.** The maximum height of a Battery Energy Storage System or building containing a Battery Energy Storage System shall not exceed the maximum building height in the district.

D. **Screening.**

(1) The Planning Commission may require that battery energy storage systems be screened year-round from view from any existing adjacent non-participating lot line and the public right-of-way by use of a screening wall, evergreen vegetation, or other screening of similar effectiveness and quality, as determined by the Planning Commission. Screening shall look as natural as possible through the use of varying plant materials of varying heights, if possible. Natural vegetation may be counted toward screening requirements. Screening shall be placed outside the perimeter fence. Screening shall be maintained throughout the life of the facility including replacing dead vegetation within six (6) months or at the earliest feasible time of year dependent on the weather. The Planning Commission may reduce or waive screening requirements provided that any such adjustment is in keeping with the intent of the Ordinance.

(2) Areas within one hundred (100) feet on each side of a Battery Energy Storage System shall be cleared of combustible vegetation and other combustible growth (including stumps of trees).

E. **Lighting.**

Lighting of the Battery Energy Storage System shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

F. **Sound.**

The sound pressure level of a battery energy storage system and all ancillary equipment shall not exceed fifty-five (55) dBA (Leq (1 hour)) at all lot lines of adjacent non-participating lots. The site plan shall include modeled sound isolines extending from the sound source to the dwelling. The applicant may be required to provide operating sound pressure level measurements from a reasonable number of sampled locations to demonstrate compliance with this standard.

G. **Land Clearing.**

Land disturbance or clearing shall be limited to what is minimally necessary for the installation and operation of the system. Topsoil distributed during site preparation (grading) on the property shall be retained on site.

H. **Access Drives.**

Access drives shall be designed in consultation with local emergency services and shall be maintained to enable year-round emergency vehicle access. New access drives within the Battery Energy Storage Systems shall be designed to minimize the extent of soil disturbance, water runoff, and soil compaction on the premises. The use of geotextile fabrics and gravel placed on the surface of the existing soil for temporary roadways during the construction of the Battery Energy Storage System is permitted, provided that the geotextile fabrics and gravel are removed from those temporary roadways once the Battery Energy Storage System is in operation. Site access shall be maintained, including snow removal at a level acceptable to the local fire department. Access drives shall be removed upon decommissioning unless the property owner requests the access drives remain in place or the Planning Commission makes a determination that the access drives should remain in place.

I. **Fencing.**

Battery Energy Storage Systems may be secured with perimeter fencing to restrict unauthorized access. Fencing is not subject to setbacks. The Planning Commission may require wildlife-friendly fencing.

J. **Wiring.**

All on-site utility lines shall be placed underground to the extent feasible, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation, any poles, with new easements and right-of-way.

K. **Safety and Compliance.**

1. Construction of a Battery Energy Storage System shall comply with the National Electric Safety Code and the Building Code. In the event of a conflict between the County Building Code and National Electric Safety Code (NESC), the NESC shall prevail.

2. **System Certification.** All Battery Energy Storage Systems shall be in compliance with the latest edition of NFPA 855 Standard for the Installation of Stationary Energy Storage Systems at the time of application. Compliance includes that all system components and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for Energy Storage Systems and Equipment) and that Battery Energy Storage Systems are subject to UL 9540A (Test Method for Evaluating Thermal Runaway Fire Propagation in Battery Energy Storage Systems), as applicable. Battery Energy Storage Systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

L. **Increased Storage Capacity.**

a. The components of the Battery Energy Storage System may be reconfigured, renovated, or replaced to increase the power storage capacity within the existing project footprint.

b. A proposal to change the project footprint of an existing Battery Energy Storage System shall be considered a new application, subject to the ordinance standards at the time of the request. Expenses for legal services and other studies resulting from an application to modify a Battery Energy Storage System will be reimbursed to the Township by the Battery Energy Storage System owner in compliance with established escrow policy.

M. **Emergencies.**

The Township may require the owner or operator to provide emergency training and/or equipment to local emergency personnel to be able to provide the required level of emergency services safely. Battery Energy Storage Systems shall be maintained in good working order and in accordance with industry standards.

N. **Application Requirements and Performance Guarantee.**

1. **Site Plan.** A site plan pursuant to **Section 5.4** shall be required. The site plan shall include the following:

a. All lot lines and dimensions, including a legal description of each lot comprising the Battery Energy Storage System.

b. Names of owners of each lot within the Township that is proposed to be within the Battery Energy Storage System.

c. Vicinity map showing the location of all surrounding land uses.

d. Location of all proposed battery structures, buildings that house batteries, other buildings or structures, electrical tie lines and transmission lines, security fencing, and all above-ground structures and utilities associated with a Battery Energy Storage System.

e. Horizontal and vertical (elevation) to-scale drawings with dimensions.

f. Proposed setbacks from the Battery Energy Storage System to all existing and proposed structures on participating and non-participating lots.

g. Dwellings on the property and within five hundred five (500) hundred feet of the lot lines (participating and non-participating lots).

h. Temporary and permanent access drives.

i. Screening/landscape detail and berm detail.

j. Signs.

k. Plans for land clearing and/or grading required for the installation and operation of the system, and plans for ground cover establishment and management.

l. Sound modeling study including sound isolines extending from the sound source(s) to the lot lines of adjoining non-participating lots.

m. Planned security measures to prevent unauthorized trespass and access during the construction, operation, removal, maintenance, or repair of the Battery Energy Storage System.

n. A written description of the maintenance program to be used for the Battery Energy Storage System, including decommissioning and removal. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the Battery Energy Storage System is decommissioned.

o. Planned lightning protection measures.

p. A preliminary equipment specification sheet that documents the proposed battery energy storage system components and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a zoning permit.

q. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of the zoning permit.

2. **Fire Reponse Plan.** Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Fire Code. Copies of Fire Response Plans shall be maintained at an approved on-site and off-site location accessible to facility personnel, the local fire department, and emergency responders, which should be outside the perimeter fence. The fire response plan shall contain the following:

   a. A description of all on-site equipment and systems to be provided to prevent or handle fire emergencies.

   b. A description of all contingency plans to be implemented in response to the occurrence of a fire emergency, including evacuation control measures and community notification measures.

   c. The results of a toxic and flammable gas plume dispersion analysis for the anticipated BESS equipment in a severe fire emergency scenario to assess potential impacts on surrounding communities.

   d. An analysis of whether plans to be implemented in response to a fire emergency can be fulfilled by existing local emergency response capacity. The analysis should include identification of any specific equipment or training deficiencies in local emergency response capacity and recommendations for measures to mitigate deficiencies.

   e. A commitment to offer to conduct, or provide funding to conduct, site-specific training drills with local emergency services before commencing operation, and at least once per year while the facility is in operation, at the expense of the project owner. Training should familiarize the local emergency services with the project, hazards, procedures, and current best practices.

   f. A commitment to review and update the FRP with local emergency services at least once every three (3) years.

   g. Other information the applicant finds relevant.

3. **Emergency Operations Plan.** A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. Copies of Emergency Operations Plans shall be maintained at an approved on-site and off-site location accessible to facility personnel, the local fire department, and emergency responders, which should be outside the perimeter fence. The emergency operations plan shall include the following information:

   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.

   b. Procedures for inspection and testing of associated alarms, interlocks, and controls.

c. Procedures to be followed for 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 the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.

e. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.

f. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.

g. Other procedures as determined necessary by the Township to provide for the safety of occupants, neighboring properties, and emergency responders.

h. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

i. An identification of potential approach and departure routes to and from the facility site for police, fire, ambulance, and other emergency vehicles.

j. An analysis of whether plans to be implemented in response to an emergency can be fulfilled by existing local emergency response capacity, and identification of any specific equipment or training deficiencies in local emergency response capacity.

k. A commitment to review and update the ERP with local emergency services at least once every three (3) years.

l. Additional detail(s) and information as required by the Special Land Use requirements of the Zoning Ordinance, or as required by the Planning Commission.

4. **Land Clearing and/or Grading Plan.** A plan showing proposed clearing and/or grading as required for the installation and operation of the system.

5. **Stormwater Management Plan.** Computations and design of a stormwater management system. For a BESS in a well-head protection zone and/or if the Fire Response Plan requires liquid agents for firefighting, additional calculations and design of the emergency runoff retention system in the area within ten (10) feet of the BESS shall be submitted.

6. **Pre-Development Sound Modeling Study** including sound isolines extending from the sound source(s) to all lot lines and dwellings on non-participating properties within one thousand (1,000) feet of the property boundary.

7. **Preliminary Equipment Specification Sheet.** Such sheet documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A Final Equipment Specification Sheet shall be submitted as part of Post-Construction Reporting.

8. **System Maintenance Plan.** A detailed maintenance schedule covering all affected equipment and the activities performed as outlined in the NFPA 855 Standard for the Installation of Stationary Energy Storage Systems.

9. **Contact Information.** Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Information of the final system installer shall be submitted as part of Post-Construction Reporting.

10. **NFPA 855 Compliance.** Confirmation that the facility complies with the latest edition of NFPA 855 "Standard for the Installation of Stationary Energy Storage Systems."

11. **Decommissioning Plan.** A decommissioning plan is required at the time of application. The decommissioning plan shall include:

    a. The anticipated life of the project.

    b. The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g. access drive, fencing), or restored for viable reuse of the property consistent with the zoning district. Removal shall include removing equipment, foundations, and other items so that the ground is restored to its preconstruction state and is ready for development as another land use.

    c. The projected decommissioning costs for removal of the Battery Energy Storage Systems and soil stabilization. The Township may require one (1) or more third-party entities to develop decommissioning cost estimates. If this is required, the Township will select the most appropriate cost estimate.

    d. The method of ensuring that funds will be available for site decommissioning and stabilization (performance guarantee pursuant to **Section 9.4**). The Township shall require the owner or operator to deposit a performance guarantee equal to 1.25 times the estimated decommissioning cost.

       A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be completed every five (5) years, for the life of the project, and approved by the Township Board. A Battery Energy Storage System owner may at any time:

       1. Proceed with the decommissioning plan approved by the Planning Commission and remove the system as indicated in the most recent approved plan; or

       2. Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.

12. **Additional Studies.** Additional studies may be required by the Planning Commission if reasonably related to the standards of this Ordinance as applied to the application site, including but not limited to:

    a. **Visual Impact Assessment.** A technical analysis by a third-party qualified professional of the visual impacts of the proposed project, including a description of the project, the existing visual landscape, and important scenic resources, plus visual simulations that show what the project will look like (including proposed landscape and other screening measures) a description of potential project impacts, and mitigation measures that would help to reduce the visual impacts created by the project and documented on the site plan.

    b. **Environmental Analysis.** An analysis by a third-party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, wildlife, endangered and threatened species, historical and cultural sites, and antiquities. If required, the analysis shall identify all appropriate measures to minimize, eliminate or mitigate adverse impacts identified and show those measures on the site plan, where applicable.

    c. **Groundwater Study.** An analysis by a third-party qualified professional that takes into account the planned groundwater use of the Battery Energy Storage System and the impacts on local water resources.

O. **Abandonment.**

If a Battery Energy Storage System owner or operator has an intent to abandon, and, in fact, does abandon a Battery Energy Storage System by not operating it for twelve (12) continuous months, the Battery Energy Storage System shall be deemed to be abandoned. The applicant/permit holder will be so notified in writing by the Township and requested to dismantle the site and return it to its original state within one hundred (180) days of receipt of notice from the Township of such abandonment. If there are mitigating circumstances as to why the site has not been used, the applicant/permit holder may contact the Township and request a six-month extension. If a site has been deemed abandoned and no request for an extension is received, the applicant/permit holder will be notified to dismantle the site and return it to its original state. If the applicant/permit holder does not do this within the one hundred (180) day period, the Township will have the removal and restoration done at the owner/applicant's expense.

P. **Post-Approval Documentation.**

Any Zoning Permit or Special Land Use Permit for any Off-Site BESS shall be conditioned upon the submission of the following documents:

1. **Pre-Construction Documents.** Prior to the commencement of construction activities, the following documents shall be prepared and/or updated in compliance with NFPA 855 and developed in consultation with the local fire department. These shall be submitted to the local fire department and the Zoning Administrator. Copies of all Pre-Construction Documents shall be maintained at an approved on-site location accessible to facility personnel, the local fire department, and emergency responders.

    a. **Final Equipment Specification Sheet.** Documenting the final battery energy storage system components, inverters and associated electrical equipment.

b. **Contact Information.** Name, address, and contact information of the system installer and the owner and/or operator of the battery energy storage system.

c. **Amended Emergency Response Plan (ERP) and Fire Response Plan (FRP) (if applicable).** Changes to the design, type, manufacturer, etc. of BESS facilities or equipment after site plan approval must be analyzed to determine if changes are necessary to the ERP or FRP. Additional consultation with local emergency services is required for amended plans.

d. **Commissioning Plan.** A Commissioning Plan as outlined in NFPA 855.

e. **Hazard Mitigation Analysis (HMA).** A Hazard Mitigation Analysis as outlined in NFPA 855.

2. **Post-Construction Reporting.** Prior to the commencement of commercial operations, the following documents shall be prepared and/or updated in compliance with NFPA 855 and developed in consultation with the local fire department. These shall be submitted to the local fire department and the Zoning Administrator prior to final inspection and approval by the fire inspector. Copies of all Post-Construction Reporting shall be maintained at an approved on-site location accessible to facility personnel, the local fire department, and emergency responders.

   a. **Amendments or updates to any Pre-Construction Documents.**

   b. **Commissioning Report.** A Commissioning Report as outlined in NFPA 855.72.

   c. **Emergency Operations Plan.** An Emergency Operations Plan as outlined in NFPA 855.73.

3. **Post-Construction Sound Survey.** Documentation of sound pressure level measurements shall be provided to the Zoning Administrator by a third-party qualified professional selected by the Planning Commission and at the expense of the BESS system owner within six (6) months of the commencement of the operation of the project. The study will be designed to verify compliance with sound standards applicable to this ordinance.

Section 4: Severability

If any clause, sentence, paragraph, or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

Section 5: Saving Clause

The Gustin Township Zoning Ordinance, except as herein or heretofore amended, shall remain in full force and effect. The amendments provided herein shall not abrogate or affect any offense or act committed or done, any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

Section 6: Effective Date

The ordinance changes shall take effect on the 8th day after the publication of the notice of adoption.

Gustin Township Supervisor

Gustin Township Clerk

I, Renee LaVergne, Clerk for Gustin Township, hereby certify that the foregoing is a true and correct copy of Ordinance No. 1 of 2025 of Gustin Township, adopted by at a meeting of the Township Board of Trustees held on 12-15-25.

A copy of the complete ordinance text may be inspected or purchased at the Gustin Township Hall, at 113 S. Second Lincoln, MI 49742.

Adopted:	Published:	Effective
12-15-25	12-24-25	1-1-26, subject to PA 110 of 2006, as amended