

**COVERT TOWNSHIP
VAN BUREN COUNTY, MICHIGAN**

Ordinance No. 122

Adopted: September 10, 2024

Effective: October 7, 2024

An Ordinance to amend the Township of Covert Zoning Ordinance to add provisions regarding battery energy storage systems; to revise the schedule of regulations; to provide an effective date and to repeal all ordinances or parts of ordinances in conflict herewith.

**THE TOWNSHIP OF COVERT
COUNTY OF VAN BUREN, MICHIGAN
ORDAINS:**

**SECTION 1
AMENDMENT TO ARTICLE 2, SECTION 2.02 OF THE
COVERT TOWNSHIP ZONING ORDINANCE**

Article 2, Section 2.02, “Construction of Language and Definitions” of the Covert Township Zoning Ordinance is hereby amended to add the following uses and to revise the following definitions as noted herein:

Add these definitions:

Battery Energy Storage System - One or more devices, assembled together **within a purpose-built container**, 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 battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh (0.6 MWh) and, if located within a structure, consist of only a single energy storage system technology. [These typically include home battery systems and systems for individual users such as a farm, school or commercial use.]

Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh (0.6 MWh) or are comprised of more than one storage battery technology.

**SECTION 2
AMENDMENT TO ARTICLE 13, INDUSTRIAL DISTRICT
SECTION 13.03 OF THE COVERT TOWNSHIP ZONING ORDINANCE**

Article 13, Industrial District, Section 13.03, “Special Uses” of the Covert Township Zoning

Ordinance is hereby amended to add a new subsection 6, Battery Energy Storage System (Tier 2) to read as follows:

6. Battery Energy Storage System (Tier 2)

SECTION 3
AMENDMENT TO ARTICLE 18, “GENERAL PROVISIONS” OF
THE COVERT TOWNSHIP ZONING ORDINANCE

Article 18, General Provisions of the Covert Township Zoning Ordinance is hereby amended to add a new Section 18.34 Battery Energy Storage Systems (BESS), which shall read as follows:

Section 18.34 Battery Energy Storage Systems (BESS)

- A. **Tier 1 Battery Energy Storage Systems** shall be permitted in all zoning districts as accessory uses, subject to the Michigan Building Code and the National Electric Code as applicable.
- B. **Tier 2 Battery Energy Storage Systems** shall be subject to the following:
1. **Location.** Tier 2 Battery Energy Storage Systems may be established on one or more lots under a signed lease, easement or other agreement. These lots shall be defined as participating lots.
 2. **Setbacks.** Tier 2 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures. Setbacks shall be measured from the lot line to the closest point of any component within the Battery Energy Storage System. Required setbacks shall not apply to common lot lines of participating lots.
 3. **Height.** Tier 2 Battery Energy Storage System purpose-built containers shall not be stacked above the height of a single purpose-built container.
 4. **Fire Safety.** Tier 2 Battery Energy Storage Systems shall comply with the National Fire Protection Association (NFPA) Fire Standard 855 regarding ‘energy storage systems’.
 5. **Utility Lines.** All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, 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 rights-of-way.
 6. **Signage.** Signage shall be required in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special

hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including a reach-back phone number.

- a. As required by the National Electrical Code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
7. **Lighting.** Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall comply with Section 18.16 – Exterior Lighting.
 8. **Noise.** The 1-hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment, shall comply with the Covert Township Anti-Noise and Public Nuisance Ordinance (Ordinance No. 39, as amended). Established maximum decibel levels shall not apply to common lot lines of participating lots. Applicants may submit equipment and component manufacturers noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the boundaries of the participating lots to demonstrate compliance with this standard. The Planning Commission may waive compliance with this requirement at a particular location along the boundary of a surrounding non-participating lot where the owner(s) and occupant of said non-participating lot agree in writing to the waiver of this requirement.
 9. **Vegetation and tree-cutting.** The area within 10 feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover shall be allowed provided they do not form a means of readily transmitting fire.
 10. **Fencing Requirements.** Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by an 8-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
 11. **Screening and Visibility.** Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfere with ventilation or exhaust ports.

12. Decommissioning.

- a. A Decommissioning Plan, including a Decommissioning Agreement in a form recordable at the Van Buren County Register of Deeds, shall be provided and shall address the following:
 - (1) State the anticipated life of the project;
 - (2) Describe estimated decommissioning costs in current dollars and provide that this figure will be updated every fifth (5th) year after commercial operation of the system;
 - (3) Be signed by the party responsible for decommissioning, and shall bind all successors, heirs and assigns;
 - (4) Define the conditions upon which decommissioning will be initiated (e.g., end of land lease, no power storage for 12 months, etc.);
 - (5) State that all equipment, conduit, structures, fencing, roads, and foundations will be removed to a depth of four (4) feet by the end of the decommissioning period;
 - (6) Require property to be restored as near as reasonably possible to the condition it was in prior to the development of the system;
 - (7) Describe the timeframe for completion of decommissioning activities;
 - (8) Describe any agreement (e.g., lease) with the landowner regarding decommissioning;
 - (9) State the party currently responsible for decommissioning; and
 - (10) Describe any plans or circumstances requiring an update of the decommissioning plan.
- b. A recorded copy of the Decommissioning Agreement shall be submitted to the Township.
- c. Decommissioning shall be completed within 12 months of determination by the Township Board that the system is no longer being maintained in an operable state of good repair, unless the current responsible party provides substantial evidence of the intent to maintain and reinstate operation of the system.
- d. The Decommissioning Plan shall include financial assurance in the form of a bond, or an irrevocable letter of credit, but excluding cash. The amount of the financial assurance shall not be less than the estimated cost of decommissioning the system.

Salvage value shall not be included in the estimated cost of decommissioning. The financial assurance must be posted in full (125%) by the start of full commercial operation and continuously maintained for the period of the life of the system.

13. **Ownership Changes.** If the owner of the battery energy storage system changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan.

A new owner or operator of the battery energy storage system shall notify the Township in writing of such change in ownership or operator within 30 days of the ownership change. The special use permit and all other local approvals for the battery energy storage system may be revoked, upon notice and a public hearing, if a new owner or operator fails to provide written notification to the Township in the required timeframe. Reinstatement of a revoked special use permit will be subject to the same review and approval processes for new applications under this Ordinance.

SECTION 4
AMENDMENT TO ARTICLE 15, “SCHEDULE OF REGULATIONS” OF
THE COVERT TOWNSHIP ZONING ORDINANCE

Article 15, Schedule of Regulations, Sections 15.01 and 15.02 of the Covert Township Zoning Ordinance are hereby amended by adding footnotes to the Table of Dimensions as indicated below. Section 15.01 shall read as follows:

Section 15.01 Table of Dimensions

ARTICLE 15											
SCHEDULE OF REGULATIONS											
Section 15.01 Table of Dimensions											
Zoning District	Min Lot Area	Min Frontg	Max Covg	Front Setback	Rear Setback	Side Setback	WF Setback	Min Bldg Size	Max Bldg Ht	Max Bldg Stories	Total Lot Covg
I	20,000 sq ft	100 ft	60%	50 (9)	40 (10)	20 (10)	(4)	---	40 ft	3	30%

Section 15.02 Notes to Schedule of Regulations is amended by adding new footnote 10, which shall read as follows:

10. In the I District, where a side yard or rear yard abuts property within the AG District or any residential district, the minimum side yard and rear yard setback requirements shall be 50 feet.

Footnotes 1-9 footnotes shall remain unchanged.

SECTION 5
SEVERABILITY

The provisions of this Ordinance are declared to be severable. If any court of law shall hold that any section or provision hereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this Ordinance.

SECTION 6
REPEAL OF CONFLICTING ORDINANCES/EFFECTIVE DATE

All ordinances or parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall take effect eight (8) days following publication after adoption.

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