

Amendment to the Gratiot County Zoning Ordinance

AN ORDINANCE TO AMEND THE GRATIOT COUNTY ZONING ORDINANCE REQUIREMENTS FOR BATTERY ENERGY STORAGE SYSTEMS FOR THE COUNTY-ZONED TOWNSHIPS OF ELBA, HAMILTON, LAFAYETTE, NEWARK, NORTH STAR, AND SUMNER. THIS ORDINANCE AMENDMENT WAS ADOPTED BY THE GRATIOT COUNTY BOARD OF COMMISSIONERS ON August 5, 2025.

PREAMBLE

It is hereby determined by the Gratiot County Board of Commissioners that good and reasonable cause exists to amend the Gratiot County Zoning Ordinance as ordained below:

THE COUNTY OF GRATIOT HEREBY ORDAINS

That the Gratiot County Zoning Ordinance be amended as follows:

CHAPTER 1 DEFINITIONS, SECTION 1.26 BATTERY ENERGY STORAGE SYSTEMS DEFINITIONS

Insert the following new definitions:

BESS – BESS shall mean a battery energy storage system; a land use intended to store and supply electricity. BESS shall include all improvements and components associated with the land use including, but not limited to, batteries, storage buildings/containers, electrical wiring and components, inverters, access roads, and fencing. The term BESS or battery energy storage system when used in a section dedicated to “Small-Scale” or “Utility-Scale” systems shall refer to the respective type of system referenced throughout the section

Habitable Structure – Any structure usable for living or business purposes, which includes but is not limited to working, sleeping, eating, cooking, recreation, office, office storage, or any combination thereof. An area used only for storage incidental to a residential use or is irregularly used by humans, is not included in this definition.

Nonparticipating Parcel – Any parcel of property in the County not entered into a land use agreement such as lease to host or otherwise be associated with a BESS.

Safety Hazard – This term shall mean as any condition which could reasonably be expected to create, cause, or compound the substantial likelihood that death, illness, or personal injury may occur to any member of the general public, included but not limited to, trespassers or emergency services personnel. Adherence by the facility owner/operator or occupants to industry standards for safeguarding against such risks shall be taken into consideration in determining whether a condition poses a safety hazard.

Small-Scale Battery Energy Storage Systems – A residential or small-business scale rechargeable electrical system that allows storage and disbursement of energy solely for purposes on-site.

Utility-Scale Battery Energy Storage Systems – A utility-scale rechargeable electrical system that allows storage and disbursement of energy from nearby commercial-scale power generating systems or from the public utility electric grid for the primary purpose of disbursement back to the public utility electric grid.

CHAPTER 2 GENERAL PROVISIONS, SECTION 2.11 ACCESSORY USES

Insert the following under Accessory Uses:

D. Small-Scale Battery Energy Storage Systems

1. Small-Scale Battery Energy Storage Systems are permitted as an accessory use in all zoning districts and shall follow the regulations associated with accessory uses, as provided in this Section. Such systems shall be approved through the issuance of both a zoning compliance permit and a building permit, provided the applications and installations meet the requirements set forth in this section. If the zoning administrator believes that the Small-Scale Battery Energy Storage System may have an adverse impact on the health and safety of the public, it may require the applicant to apply for a Site Plan Approval to the Planning Commission.
 - a. All Small-Scale Battery Energy Storage Systems with an aggregate energy capacity of more than 600 kWh shall be supplied with documentation showing compliance with NFPA 855. Such systems shall be submitted for review by the Zoning Administrator and Gratiot Emergency Services Authority or any other applicable emergency services provider.
2. General Requirements:
 - a. Setbacks: All Small-Scale Battery Energy Storage Systems shall maintain the minimum setback of the underlying zoning district.
 - b. Mechanical equipment must be screened from the street and neighboring residences by fencing or landscaping.
 - c. An administrative review is required for all Small-Scale Battery Energy Storage Systems. The application should include the following:
 - i. Photographs of the property's existing conditions.
 - ii. Plot plan to indicate where the battery energy storage equipment is to be installed on the property.

- d. Battery storage equipment that is mounted on the roof of a building shall not exceed the maximum building height limitation for the zoning district in which it is located and shall not project beyond the eaves of the roof.
- e. Battery storage equipment that is wall mounted shall not exceed the height of the building wall to which they are attached.
- f. Battery storage equipment shall not be mounted on a building wall that is parallel to an adjacent public right-of-way.

CHAPTER 4 AG-AGRICULTURAL DISTRICT, SECTION 4.4 SPECIAL LAND USES

Insert into the list of Special Land Uses:

Utility-Scale Battery Energy Storage Systems

CHAPTER 12 I-1-INDUSTRIAL DISTRICT, SECTION 12.3 SPECIAL LAND USES

Insert into the list of Special Land Uses:

Utility-Scale Battery Energy Storage Systems

CHAPTER 16 SPECIAL LAND USES, SECTION 16.7 SPECIFIC LAND USE STANDARDS

Insert the following text:

RR. Utility-Scale Battery Energy Storage Systems

1. Battery Energy Storage Systems Special Use Purpose and Intent

The purpose and intent of this ordinance is to establish standards for the siting, installation, operation, and repair of Utility-Scale Battery Energy Storage Systems in the County.

2. Special Land Use Permit Requirement & Application Escrow

A special land use permit is required for any Battery Energy Storage System to be installed and operated within the County.

An escrow account shall be funded by an applicant when an applicant applies for a special land use permit for a BESS. The monetary amount placed by the applicant in escrow with the County shall be estimated by the County to cover all reasonable costs and expenses associated with the zoning review and approval process (including site plan review), which costs include, but are not limited to, reasonable fees of County attorney, planner, and/or engineer, as well as costs for any other outside consultants or reports or studies that the County determines are reasonably

related to the zoning review process for a particular County determines are reasonably related to the zoning review process for a particular application. Such an escrow amount shall be in addition to any non-refundable application fees determined by the County. At any point during the zoning review process, the County may require that the applicant place additional monies in escrow with the County should the existing escrow amount filed by the applicant be insufficient. If the escrow account needs replenishing and the applicant refuses to do so within 45 days, the zoning review and approval process shall cease until and unless the applicant makes the required escrow deposit. Such application escrow shall be held by the County Treasurer in a separate fund or account, and upon completion of County zoning review, all excess escrow funds must be returned to an applicant without interest besides funds determined necessary to fund ongoing project requirements. Specifically, application escrow accounts for a BESS shall also be maintained for the life of a project and until decommissioning is complete in an amount adequate to for the County to offset any incurred expenses associated with any necessary individuals or consultants to deem compliance with any ordinance requirements or conditions imposed on a BESS that require continuing inspection of a project after initial construction, as applicable.

3. System Standard

BESS shall be designed and constructed in accordance with the NFPA (National Fire Protection Association) 855 standard including as may be periodically updated.

4. Certified Components

Components of a BESS shall be approved prior to commencement of operation, as outlined by this section. The system and its components and equipment shall be listed by the nationally recognized testing laboratory, UL (Underwriters Laboratories) 9540 (standard for battery energy storage systems and equipment) and/or applicable nationally recognized standards with subcomponents meeting each of the following standards as applicable.

- A. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications)
- B. UL 1642 (Standard for Lithium Batteries)
- C. UL 1741 or UL62109 (Inverters and Power converters)
- D. Certified under the applicable electrical, building, and fire prevention codes as required.
- E. Any applicable subcomponent standards as required or industry standard for BESS components.

Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations and safety standards may be used to meet system

certification requirements.

Should any of the foregoing standards listed above not apply to a particular project or be superseded by a more current regulation, than an applicant shall demonstrate compliance with all industry-standard certification requirements for BESS components.

5. Safety

- A. All applicants shall include a detailed safety plan in a special land use permit application. Such a plan shall include, but not be limited to:
 - 1. Preliminary design with locations and descriptive details regarding components relating to fire prevention and detection, to explosion control, and fire suppression.
 - 2. Information regarding equipment designed for providing proper temperature control recommended for safe operation of batteries.
 - 3. An emergency alert system, such as a text-based system, that residents can subscribe to and be made aware of any emergencies at a project site that is paid for by the applicant.
- B. All BESS shall be equipped with safety systems as outlined below:
 - 1. Hazard detection system.
 - 2. Explosion detection system.
 - 3. Fire suppression system within each containment facility.
- C. Structures within a BESS shall be surrounded by bollards or otherwise installed in a manner to prevent vehicle impacts.
- D. A BESS owner or operator shall provide an emergency operations plan and orientation for the Gratiot Emergency Services Authority and other applicable emergency responders to the County before the beginning of commercial operation of the facility. The owner and operator shall coordinate with the entities above for further training and best practices for fighting fires and shall identify and prepare a plan to provide emergency service providers with further requisite training and/or equipment as needed to serve the emergency response needs of a BESS. The emergency operations plan should include sections regarding steps to be taken for hazard mitigation and the steps to complete an after-incident plan.

- E. BESS owners and operators shall establish a fire department access system for emergency off-hours access by emergency personnel. They shall also maintain access to the BESS by snowplowing and maintaining all vehicle and pedestrian access pathways in a timely manner.
- F. The BESS shall be adequately signed according to American National Standards Institute (ANSI) Z535, Section 4.7.4 or other applicable national standard or practice. This shall include providing emergency responders with information about the batteries and other hazardous contents and potential risks within the system.
- G. The BESS shall have site shutdown procedures for potential safety hazards and remain up to date with any site shutdown timeframes or guidelines released in the International Electrical Code or applicable governing agencies.
- H. The Planning Commission may require, as a condition of a special land use permit, for the owner of the facility to provide a specific amount of funding to the Gratiot Emergency Services Authority or any other applicable emergency services provider for any special firefighting equipment designed to extinguish the type of fire that may be involved with the type of batteries used in the BESS.
- I. A security fence that meets the requirements of the National Electrical Code shall and current Gratiot County Zoning Ordinance requirements by placed around the perimeter of the BESS and electrical equipment.
 - 1. The security fence shall be ten feet in height. Signage shall also be posted at the entrance containing warnings, no trespassing notification, and emergency contact information.

6. Setbacks

- A. For habitable structures on nonparticipating properties, the setback distance shall be 600 feet from the nearest point on the outer wall.
- B. For nonparticipating properties, the setback distance shall be 450 feet measured from the nearest nonparticipating property line.
- C. From public road rights-of-way and the front, side and rear property line, the setback distance shall be 450 feet measured from the nearest edge of a public road right-of-way.
- D. A BESS shall not be located in a county drain including easement area without approval by the Gratiot County Drain Commissioner. Similarly, BESSs cannot be within a distance from a wetland or body of water unless an applicant can

demonstrate to the satisfaction of the Planning Commission that such land use will not unreasonably adversely impact the waterway, water quality, or the environment.

- E. Fencing and other aspects of the landscaping and screening/buffering plan may be situated within the required setback areas. The BESS owner or operator shall maintain grounds located within setbacks of the facility, either through their own maintenance organization or by allowing the property owner to farm the land.
- F. Property line setbacks do not apply to contiguous parcels of properties that have a land agreement or lease to host or benefit from a BESS.

7. Sound

A BESS shall not emit sound exceeding 55dBA Leq (1 hour) at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property during daytime hours (dawn to dusk) and shall not exceed 45dBA Leq (1 hour) during nighttime hours (dusk till dawn).

- A. Pre-construction sound modeling shall be conducted that incorporates the worst-case scenario for sound emitted by the BESS.
- B. Sound testing (e.g., a post-construction sound study), or industry equipment documentation documenting sound emissions shall be required for each application and must be performed by a qualified third-party firm approved by the County and paid by the applicant. This testing shall be completed once during each season to ensure sound requirements are met throughout the entire year.
- C. An additional sound study shall be required when any new equipment is brought in, or any equipment is replaced after the completion of construction and the initial post-construction sound study.

8. Lighting

- A. The lighting of the BESS shall be limited to the minimum light necessary for safe operation. Any security lighting on site shall only be operated from dusk to dawn. All lighting associated with a BESS shall be pointed downwards in a manner to minimize any light cast on neighboring nonparticipating properties as well as roadways.

9. Landscaping

- A. Applicants shall submit a detailed landscaping plan which shows all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting. The landscape plan shall be

prepared by a licensed professional in the State of Michigan, and plant material shall meet the American Nursery Standards. This plan shall be reviewed through the special use permit approval process to ensure that the proposed facility is appropriately landscaped in relation to adjacent land uses and road rights-of-way.

- B. A BESS must have a landscape buffer. The buffer shall be located outside of any perimeter fencing associated with the land use. The buffer shall consist of three rows of plant material containing a mix of native deciduous and evergreen plant material and be at least five (5) feet in height at the time of installation. The Planning Commission may also allow the use of existing vegetation to serve as a landscape buffer. These landscaping requirements may be modified at the request of the applicant and at the discretion of the Planning Commission.
- C. Vegetation used by the BESS owner or operator as a buffer shall be maintained with good husbandry techniques such as, but not limited to, proper pruning, fertilizer, and mulching so that the vegetation will reach maturity as soon as practical with the maximum density of foliage. Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting season. Plants or grasses not part of the required landscaping buffer shall be maintained and may not exceed twelve (12) inches in height unless approved by the Planning Commission. The applicant must provide a detailed maintenance plan for the proposed BESS, and surrounding area, including maintenance for natural vegetation.

10. Stormwater Management

- A. The BESS shall not be located on public or private drain tile or related easement. The applicant shall be responsible to reroute all public and private drain tiles around the BESS, including obtaining any/all necessary approvals/permits. The BESS and/or related drain tile relocation shall not cause unreasonable stormwater impacts to adjacent or nearby properties.
- B. The applicant shall provide adequate stormwater drainage systems for the site. Correspondence from the Gratiot County Drain Commission shall be provided approving the stormwater management on the BESS site.

11. Local, State, and Federal Permits

BESSs shall be required to comply with all local, state, and federal laws and regulations including obtaining all applicable permits, licenses, and approvals. These may include, but is not limited to, NEC, ANSI, NEPA, Michigan Construction Codes, NFPA, Gratiot County Drain Commissioner, ANS, GESA, all applicable fire departments, Gratiot County Emergency Manager, and the Gratiot County Sheriff.

12. Final Design

The final design of a BESS shall be submitted prior to the beginning of commercial operation of the facility.

13. Transfer of Facility Ownership/Operation

The County shall be notified of any intent to transfer the ownership of the BESS and reassignment of a special use permit. The current facility owner or operator shall provide written notice to the Planning Commission at least sixty (60) days prior to when an agreement to change the ownership of the facility becomes effective. This notice shall inform the Planning Commission of the intended transfer of control of the BESS. Such an instrument or agreement shall include an express statement that the new owner or operator of the BESS shall not be permitted to operate that facility until compliance with the terms of this ordinance have been met, including requirements for decommissioning security.

14. Conditions

The Planning Commission may impose additional reasonable conditions for the approval of a BESS as conditions on a special use permit or site plan.

15. Complaint Resolution

Applicants shall develop a process to resolve complaints from adjacent residents and/or property owners concerning the construction and operation of the BESS. This process shall include a time limit for acting on a complaint. This process must be approved as a part of the application process. The process shall not preclude the County from acting on the complaint. During construction and operation, the applicant shall maintain a telephone number during business hours where the adjacent residents and/or property owners can reach a project representative.

16. Enforcement

- A. Any person, entity, or corporation violating any of the provisions of this section is responsible for a municipal civil infraction and all other penalties as provided in the Gratiot County Zoning Ordinance or under Michigan Law.
- B. The County Zoning Administrator shall have the right to inspect the premises on which a BESS is located upon providing the owner or operator of the BESS 48-hour notice of the planned inspection to the operator of the facility. The County may hire one or more consultants to assist with any such inspections, at the expense of the facility owner/operator.

- C. Upon request from the County, the Applicant shall provide Safety Data Sheets (SDS), the maintenance and monitoring schedule of land and improvements, and the access log within 48 hours.
- D. False report of official complaint: Any person who intentionally makes a false complaint or intentionally causes a false report of a complaint of a violation of this section to the official in charge of enforcing this ordinance, knowing the report is false, is guilty of a municipal civil infraction.
- E. If the County Zoning Administrator determines that a BESS fails at any time to meet the requirements of the Zoning Ordinance, special use permit, or site plan approval, or that it poses a potential safety hazard as defined above, the facility owner or operator shall shut down the BESS within forty-eight (48) hours after notice by the Zoning Administrator, and not operate, start, or restart the BESS until an identified issue has been corrected.

17. Decommissioning

The project shall be decommissioned if for twelve (12) months the project has not been in operation, or if the Zoning Administrator determines that the project is no longer being maintained in an operable state of good repair. The decommissioning may be postponed by the Planning Commission upon presentation of substantial evidence of the intent to maintain and reinstate operation of the BESS. If decommissioning is triggered by either of these two conditions, the project owner must remove all equipment, conduit, structures, fencing, roads, and foundations within six (6) months of notice to decommission from the Zoning Administrator. If the site is not decommissioned within six (6) months of the notice to decommission, the owner/operator of the site shall be subject to zoning ordinance enforcement procedures including issuance of municipal civil infractions providing for daily civil fines and all other penalties provided under the law for ordinance violations until decommissioned. The site must be restored to its original condition by filling with top soil and restoring to a state compatible with the surrounding vegetation. Roads or access drives may remain in place following decommissioning upon presentation of a signed agreement to that effect by the property owner. If the owner of the project fails to remove or repair any defective, abandoned or terminated project, the County, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the project and recover any and all costs, including attorney fees.

The Applicant shall receive multiple cost estimates, no less than three (3), for decommissioning. The County use 125% of the highest cost estimate received as the official cost of decommissioning.

18. Continuing Security and Escrow Deposit

If any BESS is approved under the Zoning Ordinance, the applicant shall be required to post continuing security and a continuing escrow deposit prior to commencement of construction, which shall remain in effect until the BESS has been finally decommissioned as provided below.

F. Continuing Security: If a special use permit is approved pursuant to this section, the Planning Commission shall require security in the form of a cash deposit, irrevocable letter of credit, corporate bond, or surety bond in a form, amount, time, duration deemed acceptable to the County which will be furnished by the applicant to the County in order to ensure full compliance with this section and any conditions of approval. Such financial security may not credit salvage value of the BESS and its components to lower the amount of the financial security. When estimating the amount of such required security, the County may also require an annual escalator or increase based on the Consumer Price Index (or the equivalent or its successor). In no such index is used, such financial security shall be reviewed by the owner or operator of the project every three (3) years to address decommissioning cost increases throughout the life of the project. Such financial guarantee shall be deposited or filed with the County Clerk after a special use permit has been approved but before construction commences upon the BESS. At a minimum, the financial security shall be in an amount determined by the County to be reasonably sufficient to have each BESS fully removed (and all components properly disposed of and the land returned to its original state) should such structure or structures become abandoned, dangerous, or obsolete, or not in compliance with this ordinance or the special use permit. Such financial security shall be kept in full force and effect during the entire time while a BESS exists or is in place, and such financial security shall be irrevocable and noncancelable (except by the written consent of both the County and the then-owner of the BESS).

G. Continuing Escrow Deposit: A continuing escrow deposit to be held by the County shall be funded in cash by the applicant prior to the commencement of construction of any BESS and shall be maintained by the BESS owner until the BESS has been permanently removed. The monetary amount placed by the applicant in escrow with the County shall be estimated by the County to cover all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of the special use permit, which costs can include, but are not limited to, reasonable fees of the County Attorney, County Planner, and County Engineer, as well as costs for any reports or studies which the County anticipates it may have done that are reasonably related to enforcement of the Ordinance and the special use permit. If the County is required to expend any portion of the escrow deposit, or if the existing escrow amount paid by the applicant proves to be insufficient to cover the County's enforcement costs, the County may require that the BESS owner place additional monies into escrow with the County. Alternatively, if lawful, applicant will pay permit fees equivalent to estimate of all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of the special use

permit, which costs can include, but are not limited to, reasonable fees of the County Attorney, County Planner, and County Engineer, as well as costs for any reports or studies which the County anticipates it may have done that are reasonably related to enforcement of the Ordinance and the special use permit. As for the escrow requirement, this permit fee will also include a replenishment obligation if the permit fees paid by the applicant prove to be insufficient to cover the County's enforcement fees, costs, and expenses.

- H. Continuing Obligations: Failure to keep such financial security and escrow deposit in full force and effect at all times while a BESS exists or is in place shall constitute a violation of the special use permit and this Ordinance and will subject the BESS owner to all remedies available to the County, including possible enforcement action and revocation of the special use permit or site plan approval.

19. Community Impacts Analysis

Applicants for a BESS shall submit a document that identifies the impacts of a proposed project on community resources and services, including, but not limited to, roads, fire protection (including any necessary training or equipment), police protection, emergency medical services, and public drainage systems including culverts. Applicants shall demonstrate in an application for a BESS how they will ensure impacts from a proposed project on community resources and services will be addressed by the applicant and not be borne on the County.

Applicants shall submit documentation if the proposed BESS site is undeveloped land, a description of feasible alternative locations, including but not limited to brownfield or vacant industrial property and an explanation as to why these were not chosen.

20. Ordinance Requirements

Requirements imposed by in this section shall be in addition to any further requirements imposed on Battery Energy Storage Systems by other County ordinances or the Zoning Ordinance, generally. If there is a conflict between any of these provisions with another ordinance, the language of the more restrictive ordinance shall govern.

21. Interference

If a BESS is reasonably expected to have an impact on television signals, microwave signals, global position systems, military defense radar, radio reception, or weather and doppler radio, an applicant must submit a plan to minimize and mitigate that impact.

22. Construction and Lifespan

An applicant must submit an anticipated construction commencement date and anticipated

completion date for project construction. An estimate of the total operating lifespan of the project before decommissioning in years.

23. Height

The maximum height of all BESS storage containers or similar structures containing battery storage components of a BESS is limited to 15 feet in height. All other general improvements of a BESS are encouraged to be less than 15 feet in height; however, an applicant can site improvements greater than 15 feet in height (consistent with zoning district regulations) if the Planning Commission determines taller improvements are necessary for a project such as mounting heights for project security lighting.

24. Repowering & Augmentation

Should an owner or operator of an energy storage facility intend to repower the project (replace project components to extend the project's lifespan in lieu of decommissioning), it will require obtaining a new special use permit. Owners or operators augmenting a BESS or repurposing battery components must have outlined an augmentation or repurposing plan in an original zoning approval or they must obtain a new special use permit before conducting the aforementioned activities that will extend the project life of the improvement.

25. Lot Coverage

Lot coverage restrictions shall not apply to a BESS sited in accordance with this Section and the Zoning Ordinance.

26. Agricultural Impact

Each applicant must demonstrate how project restoration and decommissioning plans enable project lands that were prime farmland or used for agricultural purposes to still be prime farmland or suitable for agricultural purposes. Applicants shall ensure that any facility sited on lands used for agricultural purposes or prime farmland can be maintained and returned to a state to continue to be used for agricultural purposes after project decommissioning and all costs associated with such maintenance and restoration of lands back to a state suitable to continue agricultural purposes or to still be considered prime farmland is included in any decommissioning security submitted to the County.

This Amendment of the Gratiot County Zoning Ordinance shall become effective eight (8) days after the notice of adoption is published as required by the Michigan Zoning Enabling Act (PA 110 of 2006, as amended). Gratiot County may assemble this amendment into a singular Zoning Ordinance book compilation of all provisions of the Gratiot County Zoning Ordinance. In making any compilation, the County may make any necessary clerical changes (e.g., section or heading numbers) to properly include it in the book.

The motion was made by Sopocy, supported by Bailey.

The motion carried 5-0.

Dave Owens, Chairperson

Dave Owens

Gratiot County Commission

Date Signed August 5, 2025

_____,
Angie Thompson
Gratiot County Clerk

Angie Thompson

Date Signed August 5, 2025

STATE OF MICHIGAN COUNTY OF GRATIOT

I do hereby certify that the above amendment of the Gratiot County Zoning Ordinance is a true and correct copy of the Ordinance adopted by the Gratiot County Commissioners present on August 5, 2025.

Angie Thompson
Angie Thompson
Gratiot County Clerk