

**FABIUS TOWNSHIP**  
**ST. JOSEPH COUNTY, MICHIGAN**

**Ordinance No. DRAFT**

**Adopted:** \_\_\_\_\_

**Effective:** \_\_\_\_\_

An Ordinance to amend the Fabius Township Zoning Ordinance to add Battery Energy Storage Systems as a component of a Solar Energy System; to add requirements for Battery Energy Storage Systems; to provide an effective date and to repeal all ordinances or parts of ordinances in conflict herewith.

**THE TOWNSHIP OF FABIUS**  
**COUNTY OF ST. JOSEPH, MICHIGAN**  
**ORDAINS:**

**SECTION 1**  
**AMENDMENT TO ARTICLE I, SECTION 46.3 “DEFINITIONS” OF THE FABIUS**  
**TOWNSHIP ZONING ORDINANCE**

Article I, Section 46.3, titled “Definitions” of the Fabius Township Zoning Ordinance is hereby amended to add the following where alphabetically appropriate:

**“Battery Energy Storage System (“BESS”):** As used in this Ordinance, one or more devices, assembled together, capable of and used to store excess energy generated from the Solar Energy System in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery, an electric motor vehicle, or small store-bought batteries designed and used purely for household electronic items.”

Article I, Section 46.3 of the Fabius Township Zoning Ordinance is further amended to add to the definition of “Principal-Use Solar Energy System” so that the definition of that term reads in its entirety as follows:

**“Principal-Use Solar Energy System:** A commercial, ground-mounted solar energy system that converts sunlight into electricity for the primary purpose of off-site use through the electrical grid or export to the wholesale market. This shall include any Battery Energy Storage Systems which hold and/or discharge energy collected by the solar system.”

**SECTION 2**  
**AMENDMENT TO ARTICLE VII, SECTION 46.664 OF THE FABIUS TOWNSHIP**  
**ZONING ORDINANCE**

Article VII, Section 46.664, titled “Large Solar Energy Systems” of the Fabius Township Zoning Ordinance is hereby amended to add a new subsection “L” and re-letter the remaining subsections accordingly (i.e., current subsection “L” shall be re-lettered to “M”, and so on). No current subsections shall be deleted or modified by this amendment. The new subsection “L” shall read in its entirety as follows:

**“L. Battery Energy Storage Systems (“BESS”):** Battery Energy Storage Systems shall be permitted as part of a Solar Energy System subject to the following requirements:

1. The BESS shall be considered part of or a component of the Solar Energy System.
2. Height. The height of battery energy storage system structures, except for electric distribution and transmission poles, shall not exceed a height of fifteen (15) feet as measured from the natural grade of the property beneath the structure.
3. Fencing. To the extent not satisfied by fencing associated with the overall Solar Energy System, the BESS shall be completely enclosed with fencing in compliance with the latest version of the National Electrical Safety Code or any applicable successor standard approved by the Michigan Public Service Commission.
4. Safety Signage. The BESS shall post signs in compliance with NFPA 70/70E or any applicable successor code in place at the time of application for approval. Additionally, signage shall be provided per NFPA 855 7.4.4, or any applicable successor code in place at the time of application for approval, including information on the system type and technology, special hazards, fire suppression system and 24-hour emergency contact information, including reach-back phone number. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
5. Other Signage: Additional signage may be permitted or required by the Planning Commission as is necessary to ensure the safe operation of the BESS.
6. The BESS shall comply with NFPA 855 “Standard for the Installation of Stationary Energy Storage Systems” or any applicable successor standard adopted by the Michigan Public Service Commission.
7. If the BESS includes an access drive(s) for maintenance purposes, the surface of the access drive(s) shall be permeable (unless on brownfield land or on an already paved surface at the time of application for approval, such as a parking lot or former building foundation.)
8. Except as otherwise depicted on and subject to approval of the Planning Commission, the area within which the BESS is located shall not be paved with asphalt/concrete or any other surface material that is impermeable to water other than for slab foundations for structures and equipment. This shall not apply to a

BESS located on brownfield land or on an existing paved area such as a former building slab or in an unused parking area when adequate parking remains for all other uses on the site.

9. All surface water runoff shall be effectively managed on-site.
10. The BESS and all foundation elements shall comply with all applicable building and electrical code requirements, and any applicable federal/state regulations. The manufacturer's engineer or another qualified engineer shall provide written certification that the design, installation (including foundations), and interconnection is compliant with the manufacturer and industry standards, all applicable local construction and electrical codes, and any applicable federal/state regulations.
11. Other than transmission or distribution lines for interconnection to the electric power grid, all electrical wiring shall be buried underground; except where the manufacturer's engineer or a qualified engineer employed by the utility that owns/operates the electrical power grid to which the BESS shall be interconnected certifies an underground wiring installation is not permitted by an applicable code and/or applicable federal/state regulation, with attached complete documentation supporting any such certification.
12. The BESS shall be designed, located, and maintained so as to comply with all applicable codes and regulations.
13. Repair and Augmentation. In addition to repairing or replacing facility components to maintain the BESS, the BESS may at any time be augmented without the need to submit a new site plan so long as the augmentation is within the same footprint (e.g., same dedicated use building or on footings/foundations in the same location) as the original permit. If there is a change in the battery chemistry, an updated Hazard Mitigation Analysis and Emergency Operation Plan shall be provided. When a facility is anticipated to be augmented over its lifetime by adding additional components, the applicant should apply for the final/augmented site arrangement. A proposal to increase the size the project footprint may be considered a new application, subject to the ordinance standards at the time of the request
14. Decommissioning and Removal. The BESS shall be included as part of the Decommissioning Plan for the overall Solar Energy System.
15. Site Plan Requirements. The Site Plan for the overall Solar Energy System shall include the BESS and its components, showing the layout of the proposed system, including distances from all existing and proposed structures/buildings and fencing on the site to all lot lines including to all boundaries of a leased site, where applicable, and to all structures/buildings on adjacent nonparticipating properties.

16. Emergency Response Plans. To the extent not satisfied by other parts of this Ordinance, the applicant shall submit a Fire Response Plan as required by the Clean and Renewable Energy and Energy Waste Reduction Act, as amended, MCL 460.1001 et seq; and the applicant shall submit an Emergency Operations Plan with respect to the BESS which includes the means by which firefighters and other emergency services personnel can access and shut down the system on an emergency basis. The approved emergency plan shall include a 24-hour emergency contact telephone number for use by emergency services providers. The means of emergency access and the means of an emergency shutdown of the system by emergency services personnel shall be provided to the Township or other appropriate agency managing emergency response.”

**SECTION 3**  
**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 4**  
**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.

FABIUS TOWNSHIP  
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