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MEMORANDUM

TO: Frenchtown Charter Township Board
FROM: Al VanWashenova
RE: Second Reading Ord. BESS/300-16
DATE: January 14, 2026

Second Reading of Text Amendment re BESS/300-16, regarding battery storage.

Al VanWashenova

**FRENCHTOWN CHARTER TOWNSHIP
ZONING ORDINANCE AMENDMENT**
Ord. No. 300-16; Date of Adoption; January ____, 2026

An Ordinance to amend Frenchtown Charter Township Zoning Ordinance No. 300, Article 2, Section 2.10 Table of Permitted Uses and Uses with Specific Standards; Article 4 Use Standards to address Battery Energy Storage Systems.

THE CHARTER TOWNSHIP OF FRENCHTOWN ORDAINS:

Section 1. Title.

This Ordinance shall be known and referred to as "Frenchtown Charter Township Zoning Ordinance Amendment No. 300-16"

Section 2. Amendment of Zoning Ordinance No. 300, Article 2, Section 2.10 Table of Permitted Uses and Uses with Specific Standards:

Frenchtown Charter Township Zoning Ordinance No. 300, Article 2 Section 2.10 Table of Permitted Uses and Uses with Specific Standards is hereby amended by adding the following under Industrial Uses:

Battery Energy Storage Systems as a special use in PS and I-1 with reference to Development Standard 4.45 in Article 4.

Hybrid Energy Projects which include a BESS with another energy facility such as wind or solar as a special use in I-1 with reference to Development Standard 4.45 in Article 4 as to BESS and Development Standards 4.38 for Solar and 4.43 for Wind.

Section 3. Amendment of Zoning Ordinance No. 300, Article 4, Section 4.45 Battery Energy Storage Systems.

Frenchtown Charter Township Zoning Ordinance No. 300, Article 4 Section 4.45 Battery Energy Storage Systems is hereby added as follows:

Battery Energy Storage Systems shall conform and be subject to the following.

A. INTENT

This Ordinance is to establish minimum requirements and regulations for the construction, erection, placement, location, maintenance, modification, operation, and decommissioning of Battery Energy Storage Systems (BESS) in the Charter Township of Frenchtown 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, residential areas, endangered species habitats, conservation lands, and other sensitive lands.

B. DEFINITIONS

The following words and phrases shall have the following definitions when used in this section.

1. **Augmentation:** The process of supplementing or replacing some or all of the system components to maintain the nameplate capacity (measured in megawatts MW).

2. **Battery Energy Storage Facilities:** One or more devices, assembled together, capable of storing energy to supply electrical energy, including battery cells used for absorbing, storing, and discharging electrical energy in a utility-scale battery energy storage system with a battery management system.

3. **Battery Energy Storage System (BESS):** A physical container providing secondary containment to battery cells that is equipped with cooling, ventilation, fire suppression, and a battery management system with a nameplate capacity of 50 MW or more.

4. **Battery Management System:** An electronic regulator that manages a battery energy storage system by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and capable of shutting down the system before operating outside safe parameters.

5. **Commissioning:** A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

6. **Decommissioning:** The process of removing equipment and other infrastructure associated with a project and restoring the site for viable reuse consistent with the zoning district.

7. **Dedicated-Use Building:** A building that is only used for battery energy storage system components and equipment, as defined in the National Fire Protection Association (NFPA) 855 Standard for the Installation of Stationary Energy Storage Systems.

8. **Hybrid Energy Project:** A BESS co-located with another energy facility, such as a wind or solar energy facility.

9. **Nameplate Capacity:** The intended full-load sustained output of a BESS facility under ideal conditions, such as maximum usable wind or high sun on a clear summer day expressed in Megawatts (MW).

10. Non-participating Property: Real property that is not participating property.

11. Occupied Community Building: A school, place of worship, day care facility, public library, community center, or other similar building that is used as a gathering place for community members.

11. Participating Property: Real property that is either owned by an applicant or that is the subject of an agreement that provides for the payment by an applicant to a landowner of monetary compensation regardless of whether any part of the BESS system is constructed on the property.

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

C. GENERAL PROVISIONS

All Battery Energy Storage Systems (BESS) are subject to the following requirements:

1. All BESS must conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes, applicable industry standards, and NFPA 855 and all other applicable NFPA Standards "Standard for the Installation of Stationary Energy Storage Systems".

2. The Township may enforce any remedy, including but not limited to the removal of any BESS pursuant to the Zoning Ordinance or as otherwise authorized by law, if the BESS does not comply with this Ordinance or any county, state, federal or other applicable regulations.

3. Battery Energy Storage Systems shall only be allowed as a Permitted Use after Special Approval in the Public Service and Industrial Zoning Districts.

4. Hybrid Energy Projects which include a BESS with another energy facility, such as a wind or solar energy facility shall only be allowed as a Permitted Use after Special Approval in the Industrial Zoning District. If the wind or solar energy system is to be co-located with another energy facility, such as battery energy storage, both land uses may be included in one application and each component shall be reviewed for compliance with the appropriate development standards for each proposed use.

5. Essential Services and Public Utilities are not exempt from the requirements of this Ordinance.

D. APPLICATION REQUIREMENTS

In addition to the requirements for Site Plan Review in Section 7.03 and Uses After Special Approval in Section 7.04, applicants shall provide the Planning Commission with all of the following:

1. Operations Agreement. An operations agreement setting forth the operations parameters, the name and contact information of the operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.
2. Waste Mitigation Plan. A plan for managing any waste materials, which is subject to the Township's review and approval.
3. Fire and Emergency Response Plan. A written description of the applicant's plan for responding to emergencies, including fire emergencies, including specialized training and/or equipment necessary for handling fires and/or other emergencies at the BESS site, which is subject to review and approval from a Township Fire Chief. The plan must include, at a minimum, annual emergency response training for local firefighters and other local emergency personnel at the site of the BESS before commencing operation, and at least once per year while the facility is in operation, at the expense of the project owner. If adequate resources do not exist, the applicant shall identify its plan for providing those resources. The fire and emergency response plan shall include identification of potential hazards to adjacent properties, public roadways, and to the community in general that may be created, as well as plans for immediate cleanup, long-term monitoring, and continued mitigation efforts following an emergency. The Fire and Emergency Response Plan shall include the following:
 - a. An identification of contingencies that would constitute a safety or security emergency;
 - b. Emergency response measures, and community notification measure by contingency;
 - c. A description of all on-site equipment and systems provided to prevent or handle fire emergencies;
 - d. A commitment to offer to conduct, and provide funding to conduct, site-specific training drills with emergency responders 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 Township Fire Department with the project, hazards, procedures, and current best practices;
 - e. An identification of potential approach and departure routes to and from the facility site for police, fire, ambulance, and other emergency vehicles;
 - f. 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. If there are equipment deficiencies in response to an emergency, the Township Fire Department will order or commandeer any equipment deemed necessary above and beyond the standard emergency equipment generally kept on hand. The project owner will be billed for this necessary equipment;

g. A commitment to review and update the Fire and Emergency Response Plan with the Township's Fire Department, first responders, and County emergency managers at least once every 3 years from the date of Planning Commission approval. Two (2) sets of the updated Emergency Response Plan shall be submitted to the Township Building Department. The Building Official will retain (1) copy for Building Department records and (1) copy will be distributed to the Township Fire Chief or his or her designee for review and approval. Failure to comply will result in a zoning ordinance violation, pursuant to Section 7.11;

h. Copies of the Fire and Emergency Response Plan shall be maintained at an approved on-site location in a Lock Box Document Cabinet accessible to facility personnel, the local fire department, and emergency responders, which should be outside of the perimeter fence:

i. Such other information the applicant finds would be relevant to the review and consideration by the Township.

6. Environmental Regulation Compliance. Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq; Part 91, Soil Erosion and Sedimentation Control (MCL 324.30101 et seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL 324.36501 et seq.); and any other applicable laws and rules in force at the time the application is considered by the Township.

7. Indemnification. An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the BESS, which is subject to the Township's review and approval.

8. Complaint Resolution Plan. A complaint resolution plan for resolving complaints from the public or other property owners concerning the construction and operation of the BESS, which is subject to the Township's review and approval.

9. Decommissioning Plan. A decommissioning plan drafted by a State of Michigan licensed professional engineer that is consistent with the requirements of this Ordinance and any County, State, Federal or other applicable regulations. The decommissioning plan shall include, but is not limited to, financial assurance in the form of a bond, a parent company guarantee, 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 energy storage facility, as calculated by a third party with expertise in decommissioning, hired by the applicant and approved by the Township.

E. SYSTEM AND LOCATION REQUIREMENTS

The site development requirements shall meet or exceed all of the following:

1. The following minimum setbacks shall be required. Setbacks are measured from the nearest point of any Battery Energy Storage Systems (BESS) equipment including perimeter fencing of the facility, but not including landscaping installed as part of the BESS. An applicant is exempt from these minimum setbacks to non-participating properties and buildings if it obtains a written setback waiver from the applicable non-participating property owner that is recorded in the chain of title.

a. 100 feet from any non-participating property line or road right-of-way line.

b. 300 feet from the nearest point on any non-participating occupiable residential dwelling or community building.

c. 100 feet from the property line of any commercial building on a non-participating property.

d. 3 feet between BESS units (as required by NFPA 855 and all other applicable NFPA Standards). The Planning Commission may waive this setback if the applicant provides favorable UL9540A fire test report results that have been reviewed and approved by the Township Fire Chief or his or her designee.

2. Height. The height of BESS structures, except for electric distribution and transmission poles, shall not exceed a height of twenty-five (25) feet as measured from the natural grade of the property beneath the structure to the top of the structure, including any HVAC equipment on top. Stacking of battery storage system components is prohibited.

3. Lighting. The BESS shall implement dark sky-friendly lighting solutions that are designed to minimize the amount of light that escapes upward into the sky.

4. Security Fencing. The BESS shall be completely enclosed with fencing at least seven (7) feet in height, in compliance with the latest version of the National Electrical Safety Code or any applicable successor standard.

a. The Planning Commission may approve use of razor or barbed wire, electrified fences, spikes, and similar security materials where deemed necessary for security purposes or public safety.

b. Appropriate warning signs must be posted on the security fence, at safe intervals, at the entrance and around the perimeter of the BESS.

5. Sound. The system may not generate a maximum sound in excess of 55 average hourly decibels as measured at nearest occupied dwelling of an adjacent non-participating property, unless the applicant has obtained a written sound waiver from the applicable non-participating property owner that is recorded in the chain of title. Decibel modeling shall use the A- weighted scale designed by the American National Standards Institute. The Planning Commission may require the applicant to provide a sound study as part of the special land use review process.

6. Screening/Visibility. The Planning Commission shall require reasonable measures to minimize visual impacts by preserving existing natural vegetation, requiring new vegetative screening or other appropriate measures. The Planning Commission shall determine such visual screening measures as may be required on a site specific basis. In making this determination the Planning Commission is specifically authorized to consider whether additional visual screening measures are appropriate where a system is proposed to be located on property adjacent to a residentially used property and/or a residential district zoning classification. All screening/landscaping shall be properly maintained throughout the life of the project including replacement of any dead landscaping within six months.

7. Surface water management. All surface water runoff created by construction and operation of the project shall be effectively managed on-site.

8. Repair, Augmentation, and Repowering. In addition to repairing or replacing BESS components to maintain the system, a BESS may at any time be augmented or repowered without the need to submit new site plan so long as the augmentation or repowering is within the same footprint as the original permit and there is no significant change in the battery chemistry. When a BESS is anticipated to be augmented with a significant change in battery chemistry, the applicant shall submit an augmentation plan as part of the site plan application.

a. Dead cells within an existing BESS shall be replaced in a timely manner. Battery replacement of dead cells in an existing BESS with the same battery chemistry is considered as maintenance, requiring no further Township approval.

b. A proposal to change the project footprint and/or a significant change in battery chemistry shall be considered a new application, subject to the ordinance standards at the time of the request and any other County, State, Federal or other applicable regulations.

9. Annual Inspection. Annual inspections are required by the Township. The Township Fire Chief or his or her designee and Township Electrical Inspector will perform annual inspections for safety and maintenance monitoring. An electrical

permit is required for the Township Electrical Inspector's inspection. Additional information may be needed as determined by the Inspector.

10. Decommissioning: If the BESS ceases to operate or is abandoned for a period of twelve months, the applicant shall repair and restore the system to good working order within a year or, if no longer operating or no longer in compliance with federal, state or local codes, it shall remove the system in its entirety. This shall not include existing concrete pads or access drives on the property. The following shall also be required:

a. Decommissioning Plan. Submit a decommissioning plan that includes the following:

1. An overview of the proposed energy facility including:
 - i. A detailed description of the proposed energy facility above ground and overview of the current land use of the site where the proposed energy facility will be located.
 - ii. The expected useful life of the proposed energy facility.
 - iii. A description of events which would trigger applicant-initiated decommissioning.
 - iv. A physical and chemical analysis of the soil which can be used to ensure soil is returned to a useful condition.
 - v. A list of known hazardous substances at the time of development.
2. A description of the energy facility removal process including:
 - i. A proposed decommissioning schedule.
 - ii. A description of facilities that will be removed and those that will be kept in place including the reasoning and agreement with the property owner.
 - iii. A description of removal methods and site clearance activities.
 - iv. A description of anticipated hazardous substances used in the facility and removal from the site based upon what is known at the time the application is filed.

- v. A description of planned materials management methods and transportation plans and an initial plan as to whether components will be sold, landfilled, recycled or other, with the understanding that such plans will be updated periodically.
- vi. A description of resources, conditions, or activities potentially affected by decommissioning and mitigation measures to be employed during the decommissioning process.

3. A description of the site restoration plan that returns the site to a useful condition similar to its pre-construction state. Process milestones and PA 116 restoration requirements should be detailed, including necessary steps to ensure soil is returned to at least as good or better condition.

4. A list of expected necessary permits for demolition or new temporary construction which may be required for component removal and a statement that such permits will be obtained prior to the state date of decommissioning.

5. Details describing the financial assurance:

- i. The type and manner of financial assurance the developer plans to provide (cash is prohibited, subject to the terms of any future Township approval and commission-approved decommissioning agreement):
 - a. Bond.
 - b. Parent company guarantee.
 - c. Irrevocable letter of credit.
- ii. Such financial assurance shall be expressly held for the benefit of the Township.

6. The following commitments and assurances shall be included in the decommissioning plan:

- a. A commitment to provide decommissioning plan and financial assurance cost updates on a 5-year basis for the first 20 years of commercial operation and every 3 years thereafter.
- b. An assurance statement from that restoration will be in accordance with agreements with landowners.

- c. A commitment and plan to coordinate with landowners in which all or part of a proposed energy facility will be located to the extent possible, prior to beginning decommissioning activities.
- d. An assurance that decommissioning plan updates and cost estimates shall be filed with the Township.
- e. An assurance that the financial assurance shall be updated according to the required periodic decommissioning plan and cost estimate updates.
- f. Assurance that the applicant will provide annual proof that the financial assurance remains sufficient and in effect.
- g. A statement agreeing to provide a decommissioning completion report within 60 days after decommissioning is complete.

7. a. Provide a decommissioning cost estimate for restoration of participating properties to useful condition similar to that which existed before construction, including removal of above-surface facilities and infrastructure that have no ongoing purpose. The estimate must include the following:

- b. Detailed cost estimated for removal of energy facility equipment and infrastructure, land restoration and reclamation, and liability insurance requirements calculated by a third party with expertise in decommissioning to restore to useful condition similar to before the energy facility.
- c. An estimate of salvage value for energy facility equipment and infrastructure calculated by a third party with expertise in decommissioning.
- d. An estimate of the cost to hire a decommissioning consultant to manage the decommissioning process in the event of owner abandonment or bankruptcy.

8. Proposed Decommissioning Agreement.

- i. Submit a Decommissioning Agreement between the applicant and Township.

F. HOST COMMUNITY AGREEMENT AND FEES.

1. Upon filing an application with the Township for installation of a BESS, the applicant shall establish an escrow account in an amount determined by the Township to be used to reimburse the Township for the costs of reviewing and considering the application.

2. Pursuant to the authority of Public Act 295 of 2008, Section 227, as amended by Public Act 233 of 2023, the applicant shall be required to enter into a host community agreement which shall require that upon commencement of any operation, the BESS owner shall pay the Township \$2,000.00 per megawatt of nameplate capacity located within the Township. The payment shall be used for police, fire, public safety, or for other infrastructure as determined by the Township in its sole discretion or it may be used for other projects as agreed to by the applicant and the Township.

Section 4. Repeal.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. Severability.

Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Section 6. Effective Date.

This Ordinance shall take effect seven days after passage and publication in the Monroe News, a newspaper having general circulation in the Charter Township of Frenchtown, County of Monroe.

AmendmentBatteryStoragePD 10.28.25 2