

TOWN OF MCMILLAN
Marathon County, Wisconsin
An Ordinance Amending the Code of the Town of McMillan
Part II: General Legislation
Creating Chapter 515. Battery Energy Storage Systems and Substations

The Town Board of the Town of McMillan do ordain as follows:

Section 1: Part II General Legislation, Chapter 515 entitled “Battery Energy Storage Systems and Substations” of the Code of the Town of McMillan is hereby created to provide as follows:

Chapter 515. BATTERY ENERGY STORAGE SYSTEMS AND SUBSTATIONS

§ 515-1. Purpose:

- A. The purpose of this Ordinance is to establish Town licensing regulations for the installation and use of Battery Energy Storage Systems (“BESS”) and Substations.
- B. This Ordinance requires Owner(s) to obtain a permit from the Town before:
 - (1) Construction of a BESS or Substation;
 - (2) Expansion of an existing or previously approved BESS or Substation; and/or
 - (3) A material change in the approved design, location, or construction of a BESS or Substation.
- C. The Town may place any condition upon a permit for a BESS as long as it satisfies at least one of the following:
 - (1) Serves to preserve or protect the public health or safety.
 - (2) Does not significantly increase the cost of the system or significantly decrease its efficiency.
 - (3) Allows for an alternative system of comparable cost and efficiency.
- D. The Town may place a condition upon a permit for a Substation related to its landscaping, perimeter fencing, and/or screening.
- E. The Town shall consider each permit application for a BESS or Substation on a case-by-case basis.

§ 515-2. Definitions:

Terms used herein shall have the following meanings:

- A. “Battery Energy Storage System” (“BESS”) means a supply facility of electrochemical devices that do not transform fuel or energy into electricity, but store electricity or power capable of being

transformed into electricity, then discharges that energy at a later time to provide electricity or other electric grid services wherein said system is designed or built to connect to the transmission grid with an aggregate nameplate capacity of 5 MW or greater.

- B. "Substation" means an electric substation whose primary function is to transform the voltage of incoming power to the primary distribution voltage.
- C. "Owner" means:
 - (1) A person with a direct ownership interest in a BESS or Substation, regardless of whether the person was involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of a BESS or Substation.
 - (2) At the time a BESS or Substation is being developed, a person who is acting as a BESS or Substation developer by acquiring the necessary rights, permits and approvals for or by planning for the construction and operation of a BESS or Substation, regardless of whether the person will own or operate the BESS or Substation.
- D. "Decommissioning" means removal of all of the above ground and below ground portions to a depth of at least four (4) feet of the BESS and its supporting facilities.

§ 515-3. Applications for a BESS or Substation permit are required to contain the following:

- A. Name and address of all Owner(s) of the BESS or Substation, and the name and contact information for a designated representative, if any.
- B. Evidence that the applicant is the owner of the real property involved or has the written permission of the owner to make such an application for a BESS or Substation.
- C. Scaled drawing of the BESS or Substation and its dimensions, its location, its height above ground level, orientation, and slope from the horizontal.
- D. Site plan showing lot lines and dimensions of the BESS or Substation user's lot and neighboring lots within 300 feet.
- E. The Town reserves the right to establish a Decommissioning review process to determine when a BESS has reached the end of its useful life.
- F. Owner(s) shall acquire and submit to the Town a copy of all necessary State and Federal permits and approvals for a BESS or Substation.
- G. A finished landscape plan that includes proposed structures, topography, grubbing, clearing, plantings, and final vegetation for a BESS or Substation.
- H. Such additional information as the Town may reasonably request, if any, for a BESS or Substation.
- I. A fee bearing a reasonable relationship to the Town's anticipated review and processing of the application for a BESS or Substation that shall include the reasonable, direct cost of services necessary for review of the application provided by outside engineers, attorneys, planners, environmental specialists, and/or other consultants or experts. Additional fees may be required as

necessary, and any fees unused at the end of the application process shall be returned to the applicant. The Town Board shall determine and monitor the fee(s).

- J. As-built plans upon completion of construction of the BESS or Substation.

§ 515-4. BESS Restrictions:

The Town may impose restrictions on a BESS including but not limited to any of the following:

- A. Location, setbacks, ground clearance, and height.
- B. Anticipated costs related to emergency services required as a result of the BESS, such as for e.g., additional training and/or equipment.
- C. Decommissioning.
- D. Financial security, such as bonds, cash deposits, or letters of credit.
- E. Noise.

§ 515-5. Revocation:

Any permit granted for the installation or maintenance of a BESS or Substation may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provisions of this Ordinance or the provisions of a permit granted pursuant to this Ordinance.

§ 515-6. BESS Reports and Reviews:

- A. An Owner of a BESS within the Town shall submit an annual report to the Town Plan Commission by January 31 of each year documenting the operation and maintenance of the BESS during the previous calendar year.
- B. The Town Plan Commission shall conduct a review of the annual reports submitted, in part to determine if a BESS has reached the end of its useful life.
- C. The Town reserves the right to establish a procedure to monitor compliance by the Owner with any condition on an approved BESS or to assess when BESS facilities are not maintained in good repair and operating condition. This procedure may include timelines, payment by the Owner of reasonable fees to conduct assessments, and notification to the public.
- D. The Town may require the Owner to pay a reasonable fee for a third-party inspector to monitor and report regarding an Owner's compliance with BESS permit requirements.
- E. An Owner shall provide the Town with a copy of any third-party complaints regarding the BESS.

§ 515-7. BESS Financial Responsibility:

- A. An Owner with a nameplate capacity of 5 MW or larger shall provide the Town with financial assurance of the Owner's ability to pay the actual and necessary cost to Decommission the BESS before commencing major civil construction activities.

- B. An Owner shall provide the Town with three estimates of the actual and necessary cost to decommission the BESS. The cost estimates shall be prepared by third parties agreeable to the Owner and the Town. The amount of financial assurance required by the Town will be the average of the three estimates.
- C. An Owner shall establish financial assurance that is acceptable to the Town and that places the Town in a secured position. The financial assurance must provide that the secured funds may be used for Decommissioning the BESS, or at such time as the Town determines that the BESS has been Decommissioned, or the Town approves the release of the funds, whichever occurs first. The financial assurance must also provide that the Town may access the funds for the purpose of Decommissioning the BESS if the Owner does not Decommission the system when Decommissioning is required.
- D. The Town may periodically request information from the Owner regarding industry costs for Decommissioning the BESS. If the Town finds that the future anticipated cost to Decommission the BESS is changing in a material way, the Town may correspondingly increase or decrease the amount of financial assurance required.
- E. The Town may require a BESS Owner to submit a substitute financial assurance if an event occurs that raises material concern regarding the viability of the existing financial assurance.

Section 2: If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is found invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provision or application of this Ordinance that can be given effect without the invalid or unconstitutional provision or application.

Section 3: All ordinances and/or parts of ordinances in conflict herewith are hereby repealed.

Section 4: This Ordinance shall be in full force and effect from and after its date of adoption and notice to the public as required by law.

Section 5: Town personnel are hereby authorized and directed to make all changes to the Town Code necessary to reflect this amendment.

Adopted this 8th day of June, 2026.

TOWN OF MCMILLAN

By: Debbie Derfus
Debbie Derfus, Chairperson

ATTEST:

By: Norma Rentico
Norma Rentico, Clerk

Noticed to the public on: June 14, 2026