

TOWN OF ERIN PRAIRIE
St. Croix County, Wisconsin

BATTERY ENERGY STORAGE SYSTEM ORDINANCE

September 14, 2026

The Town Board does hereby ordain the following, to be published as Ordinance #20-2026:

SECTION 3 BATTERY ENERGY STORAGE SYSTEMS

- 3.01 **Purpose.** The purpose of this ordinance is to promote the health, safety, aesthetics, and general welfare of the people and communities within the Town of Erin Prairie (“Town”), St. Croix County, Wisconsin, and set forth the rules and procedures for this Town regarding Battery Storage Energy Systems (“BESS”) within the Town. This ordinance is adopted pursuant to the Town’s village and police powers under Wis. Stat. §§ 60.10(2)(c) & 61.34.
- 3.02 **Definitions.** The following words, phrases, and terms whenever they occur in this Section shall be interpreted as herein defined.
- (1) “Energy Storage” means any technology that is capable of absorbing electricity, storing the electricity for a period of time, and redelivering the electricity.
 - (2) A Battery Energy Storage System (or “BESS”) means electrochemical devices that charge, or collect, energy from the grid or a generation facility, store that energy, and then discharge that energy at a later time to provide electricity or other grid services. For the purposes of this Ordinance, electric car charging stations shall not be considered BESS.
 - (3) Accessory Use Battery Energy Storage Systems (“Accessory Use BESS”) are BESS that have storage capacity below 2MWh and that are not intended as their primary purpose, for the storage of energy generated for sale or distribution to the grid.
 - (4) The National Fire Protection Association (or “NFPA”) is a nonprofit organization dedicated to eliminating death, injury, property, and economic loss due to fire, electrical, and related hazards. Established in 1896, the NFPA develops and publishes over 300 consensus codes and standards intended to minimize the risk and effects of fire by establishing criteria for building, processing, design, service, and installation in the United States and internationally. The NFPA’s mission extends beyond code development; it also focuses on research, training, education, and advocacy to promote safety and preparedness.
 - (5) “National Electric Code” (NEC) also known as NFPA 70, is a set of standards for

the safe installation of electrical wiring and equipment in the United States. Its primary purpose is to ensure the safety of electrical installations by setting forth requirements to protect people and property from electrical hazards. The NEC covers the installation of electrical conductors, equipment, and raceways; signaling and communications conductors and equipment; and fiber optics.

- (6) “NFPA 855” are standards for the installation of stationary energy storage systems, providing comprehensive guidelines for the safe installation of stationary energy storage systems, including those using lithium batteries. The standards address various aspects of installation to mitigate fire and explosion risks associated with energy storage technologies. The standard covers topics such as system design, construction, operation, and maintenance to ensure safety and reliability.
- (7) “UL 9540” are standards for Energy Storage Systems (ESS) and equipment. They help ensure the safety of these systems by covering their construction, performance, and testing requirements. UL 9540 certification is essential to verify that energy storage systems, such as batteries and related equipment, meet rigorous safety standards to prevent hazards related to electrical, mechanical, and environmental conditions.

3.03 Permit Required. No BESS shall be installed or constructed, and no existing or previously approved BESS may be expanded in the Town of Erin Prairie without a BESS Permit granted pursuant to this Section of this Ordinance:

- (1) Accessory BESS. An Accessory BESS shall require a “Battery Permit.”
- (2) BESS Permit. A BESS Permit shall be required for all BESS storing 2MWh or above or for BESS with the primary purpose of storing energy for sale or distribution to the grid.

3.04 Application Requirements and Review.

- (1) Battery Permit Requirements. A Battery Permit shall not be rejected unless that rejection serves to preserve or protect the public health, safety, or general welfare.
- (2) BESS Conditional Use Application Requirements
 - a. The applicant shall complete a Town of Erin Prairie BESS Permit Application and pay the required application fee to the Town at the time the application is submitted to the Town Clerk. The application fee shall be established annually by the Town Board and shall be paid at the time the application is submitted to the Town Clerk.
 - b. After receiving the application and the application fee, the Town Clerk shall mail a copy of the application, together with notice of the date, time, and location for the next Town Plan Commission meeting, to all adjoining landowners to the proposed BESS site with the date and time of the next Town Plan Commission

Meeting.

- c. The Clerk shall then place the application on the agenda for the next Town Plan Commission meeting.
- d. The Plan Commission shall review and consider the application and make a recommendation to the Town board including any conditions. After a decision has been rendered by the Plan Commission, the application shall be placed on the agenda of the Town board for a public hearing and decision.
- e. At the public hearing held by the Town board, the Town board shall consider the recommendation of the Plan Commission on the proposed BESS.
- f. The Town Board shall grant the permit, either with or without conditions, if it determines that the development and operation of the BESS is consistent with the goal of protecting the public health, safety aesthetics, and general welfare. The Town Board shall deny the permit if it determines that the development and operation of the proposed BESS is not consistent with the protection of public health, safety, aesthetics, and general welfare.
- g. The Town board may conditionally approve the permit and may attach impose such conditions as it determines to protect public health and safety and promote the general welfare of the Town. Such conditions may include, but are not limited to, restrictive provisions and proof of financial security for decommissioning, restrictive provisions and proof of financial security for town road maintenance and repair, restrictions on hours of operation, restrictions on truck and traffic volume into and out of the BESS, restrictions to protect groundwater quantity and quality, restrictions to safeguard public and private drinking and agricultural wells, restrictions to control air emissions, explosion and fire from the BESS and its operations, and any other restrictions deemed necessary or appropriate by the Town board to protect public health and safety and promote the general welfare of the Town and its citizens.

(3) Application Requirements

- a. Code Compliance. A BESS shall comply with all applicable electrical codes including the State of Wisconsin electrical codes, the National Electric Code, NFPA 855, and the UL 9540.
- b. Setbacks. A BESS must be at least 1,200 feet from residential structures.
- c. BESS Conditional Use Permit. An application for a BESS permit shall include the following:
 - i. The parcel number and address of the site;
 - ii. MW/MWh ratings;
 - iii. Name and contact information of the applicant, owner, and installer.
 - iv. A site plan showing the location and specifications of all proposed equipment, access roads, and associated structures;
 - v. Listing of affected tax parcel ID numbers and evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application;
 - vi. A written statement evidencing compliance with the code compliance requirements of Section 3.04(3)(a.);
 - vii. A decommissioning plan and an estimated cost to decommission;

- viii. An agreement of the applicant to reimburse the Town for legal services and expert consulting incurred by the Town in connection with its review and processing of the application.

(4) Decommissioning Plan Required.

- a. Decommissioning of the system shall be triggered in the event the system is not in use for twelve (12) consecutive months. In the event decommissioning is triggered, the permit holder shall have eighteen (18) months to fully decommission the BESS after which a third party inspector will determine whether the system was decommissioned.
- b. The decommissioning plan shall include the physical removal of all above- and below-grade structures, equipment, foundations, and associated electrical infrastructure, and the restoration of the site's soil and vegetation to a condition consistent with its pre-construction agricultural or natural state, or another condition approved by the Town. The Town's goal in requiring decommissioning is to restore farmland and limit contamination as a remediation objective following the end of a system's useful life.
- c. The Town may require the posting of a bond, letter of credit, or the establishment of an escrow account, in an amount tied to approximately 110% of the estimated decommissioning cost of the specific system, to ensure proper decommissioning. The amount of the bond, letter of credit, or the establishment of an escrow account shall be reviewed every five (5) years to account for inflation and changes in removal costs.
- d. Any change in ownership of the BESS shall require the assumption of the permit and the decommissioning requirement by the new owner.
- e. The Town Plan Commission shall review the decommissioning plan and request changes needed to protect the public health, safety, aesthetics and general welfare of the community.

3.05 Fees.

- (1) All Battery Permit applications and BESS Permit applications shall be accompanied by an application fee established annually by the Town Board.
- (2) In addition to the application fee, the applicant shall be responsible for reimbursing the Town for all reasonable legal services and expert consulting expenses incurred by the Town in connection with its review and processing of the application, pursuant to the agreement required under Section 3.04 above, regardless of the outcome of the application.

This ordinance shall be effective upon posting by the town clerk as required pursuant to s.60.80, Wis. Stat.

Adopted this 17 day of September 2026.

Town of Erin Prairie, St. Croix County, Wisconsin


John Van Dyk- Chairman


Attested by: Krista Johnson—Clerk