

TOWNSHIP OF MILAN

ORDINANCE NO. ____

AN ORDINANCE TO REGULATE GAS-FIRED ELECTRIC GENERATING FACILITIES

AN ORDINANCE TO AMEND THE MILAN TOWNSHIP ZONING ORDINANCE BY ADDING A DEFINITION OF GAS-FIRED ELECTRIC GENERATING FACILITY, AMENDING THE TABLE OF PERMITTED USES, AND ADDING SECTION 13.29 TO ESTABLISH SUPPLEMENTAL REGULATIONS FOR GAS-FIRED ELECTRIC GENERATING FACILITIES.

THE TOWNSHIP OF MILAN, MONROE COUNTY, MICHIGAN, ORDAINS:

Section 1. Article 2, Definitions, Amended

Article 2 of the Milan Township Zoning Ordinance is amended by adding the following definition in alphabetical order:

Gas-Fired Electric Generating Facility. A facility, including all land, buildings, structures, equipment, machinery, controls, and accessory improvements, used for the generation of electricity for off-site distribution, transmission, sale, or wholesale use through combustion of natural gas, renewable natural gas, hydrogen blend fuel, diesel or fuel oil used for startup or emergency backup, or another gaseous or liquid fuel. The term includes, but is not limited to, combustion turbines, reciprocating engines, boilers, heat recovery steam generators, stacks, cooling towers, cooling water systems, air pollution control equipment, transformers, substations, switchyards, electric collection or interconnection facilities, natural gas metering, compression or regulation equipment, fuel handling equipment, control buildings, operations and maintenance buildings, storage tanks, water supply and wastewater facilities, stormwater facilities, access roads, security improvements, and related accessory uses.

Exclusions. The term does not include an emergency standby generator or combined heat and power unit that is clearly accessory and subordinate to a lawful principal use on the same parcel and that is not primarily used to generate electricity for off-site distribution, transmission, sale, or wholesale use.

Section 2. Article 5, Table of Permitted Uses, Amended

Article 5, Table of Permitted Uses, is amended as follows:

1. Add a new use row under the industrial, utility, or similar use category reading: 'Gas-Fired Electric Generating Facility - Special Use in the I-2 Heavy Industrial District only - subject to Section 13.29.'
2. Revise the existing row for 'Heating and electric power generating plants and all accessory uses; coal, coke, and fuel yards and water supply and waste-treatment facilities, in accordance with applicable State and Federal Regulations' to read: 'Heating plants, electric power generating plants other than Gas-Fired Electric Generating Facilities, and accessory uses; coal, coke and fuel yards; and water supply and waste-treatment facilities, in accordance with applicable State and Federal Regulations - Special Use in the I-2 Heavy Industrial District unless otherwise specifically provided in this Ordinance.'

Section 3. Article 13, Supplemental Regulations, Amended

Article 13 is amended by adding new Section 13.29, Gas-Fired Electric Generating Facilities, to read as follows:

13.29 Gas-Fired Electric Generating Facilities

A. Purpose and Intent. The purpose and intent of this Section is to establish supplemental zoning standards for the siting, construction, operation, maintenance, modification, decommissioning, and removal of Gas-Fired Electric Generating Facilities in order to protect public health, safety, and welfare; preserve compatibility with surrounding land uses; minimize adverse impacts on traffic, noise, lighting, drainage, emergency services, natural resources, and neighboring properties; and require coordination with applicable state and federal regulatory approvals.

B. Special Approval Use Required. A Gas-Fired Electric Generating Facility may be permitted only as a Special Approval Use in the I-2 Heavy Industrial District, subject to Article 10, Article 11, this Section, and all other applicable provisions of this Ordinance. A facility shall not be considered an essential service or a public utility building for purposes of avoiding the specific requirements of this Section.

C. No Preemption Intended. This Section regulates land use, site design, location, compatibility, and local impacts. It is not intended to establish separate Township air emission standards, electric utility rate standards, pipeline safety standards, or building/electrical code standards that are regulated by state or federal law. Township approval shall not relieve an applicant from obtaining and maintaining all required county, state, and federal permits, licenses, certificates, and approvals.

D. Pre-Application Conference. Before filing a Special Approval Use application, the applicant shall request a pre-application conference with the Zoning Administrator, Township Planner, Township Engineer, Fire Chief or fire authority representative, and other Township consultants or officials designated by the Township. The conference shall identify required studies, review procedures, escrow requirements, and known permit coordination issues.

E. Independent Review Escrow. At the time of application, the applicant shall deposit an escrow in an amount established by the Township Board, but not less than Fifteen Thousand Dollars (\$15,000.00), to cover reasonable Township costs for planning, engineering, legal, environmental, traffic, noise, emergency services, and other professional review. The Township may require replenishment of the escrow as reasonably necessary. Any unused escrow balance shall be returned in accordance with Township procedures.

F. Required Application Materials. In addition to the information required by Article 10 and Article 11, the applicant shall submit all information listed in subsection G. The Planning Commission or Township Board may waive specific items only upon a written finding that the item is not applicable to the proposed facility or is not necessary for review.

G. Required Submittals

1. A list of all parcel numbers included in the facility, documentation establishing ownership of each parcel, and copies of any leases, easements, purchase agreements, access agreements, utility agreements, or other property rights necessary for the facility.

2. A narrative description of the proposed facility, including generation technology, nameplate capacity in megawatts, expected operating profile, hours of operation, dispatch characteristics, fuel type, backup fuel, startup fuel, and whether electricity will be sold wholesale, supplied to a utility, or used under a power purchase agreement.
3. A sealed site plan prepared by a professional engineer licensed in Michigan showing parcel boundaries, project area, all proposed buildings, turbines, engines, boilers, stacks, cooling towers, transformers, substations, switchyards, fuel equipment, pipelines, tanks, water systems, wastewater facilities, stormwater facilities, access roads, fencing, lighting, parking, landscaping, security features, and construction laydown areas.
4. A vicinity map showing all dwellings, residential zoning districts, schools, childcare centers, places of worship, public parks, public roads, regulated wetlands, drains, surface waters, floodplains, wells, and known environmental contamination sites within one-half (1/2) mile of the project boundary.
5. A statement identifying all county, state, and federal permits, licenses, certificates, approvals, and registrations that are required or may be required, including the current status of each approval and copies of any applications, issued permits, correspondence, public notices, or agency determinations.
6. An air permitting summary describing anticipated EGLE air permit requirements, emission units, stacks, control equipment, proposed operating limits, monitoring, testing, and reporting, together with a copy of the EGLE Permit to Install application when filed and the final permit before construction of emission units.
7. An acoustical study prepared by a qualified acoustical consultant demonstrating projected compliance with Section 13.09 during normal operation, startup, shutdown, and emergency or backup operating conditions. Post-construction sound testing shall be completed at the owner's expense to verify compliance with the approved acoustical study, Section 13.09, and any conditions of approval. The Township may also retain an independent acoustical consultant, paid from the applicant's escrow or by the owner, to review projected or actual sound impacts and verify post-construction or operational compliance.
8. A traffic impact study addressing construction and operation traffic, truck routes, turning movements, driveway locations, road conditions, road agency permits, emergency access, and proposed road maintenance or repair measures. The traffic impact study shall include a pre-construction road condition inventory and, if required by the Township or applicable road agency, a post-construction road condition inventory. The Township may require the applicant, owner, or operator to enter into an agreement with the Monroe County Road Commission, the Michigan Department of Transportation, or other applicable road agency for road repairs, maintenance, restoration, traffic control, or other measures necessary to address impacts from construction or operation of the facility.
9. A lighting plan with photometric information showing the location, height, type, shielding, direction, intensity, hours of operation, and property-line illumination levels for all exterior lighting. All lighting shall comply with Section 13.09.9 - Exterior Lighting and Glare, including applicable shielding requirements and maximum property-line illumination levels.
10. A stormwater management plan, soil erosion and sedimentation control plan, drainage calculations, and identification of required county drain, road agency, or EGLE approvals.

~~11. A water supply, water withdrawal, cooling water, wastewater, sanitary sewer, industrial pretreatment, and discharge summary identifying water sources, expected daily and peak demand, consumptive use, discharge points, treatment methods, and permit status. The summary shall include an analysis of existing wells in the vicinity and any anticipated impact on nearby wells, aquifers, or groundwater resources.~~

11. The applicant shall submit a water supply, water withdrawal, cooling water, wastewater, sanitary sewer, industrial pretreatment, and discharge summary identifying proposed water sources, expected average daily and peak demand, consumptive use, discharge points, treatment methods, and the status of all applicable permits and approvals. The summary shall include an analysis of existing wells in the vicinity and anticipated impacts on nearby wells, aquifers, and groundwater resources, together with copies of all applicable water-withdrawal registrations, permits, and water-supply approvals obtained, identifying any that remain pending. Where municipal water is proposed, the applicant shall provide written confirmation from the water supplier of service availability and adequate capacity to meet the facility's average daily and peak demands.

12. A hazardous materials and fuel management plan identifying all fuel, oils, lubricants, coolants, chemicals, batteries, treatment chemicals, hazardous substances, hazardous waste, liquid industrial byproducts, and storage tanks, together with containment and spill response measures. The Township may recover from the applicant, owner, or operator all reasonable costs incurred for emergency response, consultant review, environmental investigation, enforcement, and corrective action related to the facility.
13. A fire protection, emergency response, and incident command plan reviewed by the fire authority, including emergency access, water supply or fire suppression systems, gas shutoffs, electrical isolation, hazardous material inventory, evacuation considerations, emergency contacts, training, and tabletop drill commitments.
14. A security plan addressing fencing, controlled access, cameras, lighting, signage, emergency access gates, cybersecurity contact protocol for facility control systems where relevant to local emergency response, and prevention of unauthorized entry.
15. A visual impact and screening plan showing views from adjacent public roads and neighboring dwellings, proposed landscaping, berms, fencing, building materials, stack/tower visibility, and preservation of existing vegetation.
16. A natural features assessment addressing wetlands, watercourses, floodplains, woodlands, farmland impacts, threatened or endangered species review where applicable, and proposed mitigation.
17. A construction management plan addressing schedule, work hours, construction noise, dust control, staging, laydown areas, haul routes, worker parking, temporary lighting, temporary utilities, soil tracking, and complaint response.

H. Minimum Site and Dimensional Standards

Gas-Fired Electric Generating Facilities shall comply with all applicable dimensional standards of the I-2 Heavy Industrial District. In addition, major facility equipment, including turbines, engines, boilers, stacks, cooling towers, transformers, substations, switchyards, fuel tanks, and gas compression or regulation equipment, shall be set back not less than three hundred (300) feet from all property lines and public road rights-of-way, and not less than five hundred (500) feet from any existing dwelling, residential zoning district, school, childcare center, place of worship, public park, or playground. A perimeter buffer of not less than one hundred (100) feet shall be provided except at approved

driveways, utility crossings, and stormwater outlets. Screening shall include evergreen plantings, berms, fencing, walls, or other measures approved by the Township to provide year-round screening where necessary. Dead or unhealthy landscaping shall be replaced within a reasonable time determined by the Township. The Township Board may require greater setbacks or buffers where necessary to satisfy Article 10 Special Approval standards.

I. State and Federal Permits. Township approval of a Gas-Fired Electric Generating Facility shall not relieve the applicant, owner, or operator from obtaining and maintaining all required county, state, and federal permits, licenses, certificates, and approvals. As a condition of Special Approval Use and Site Plan approval, the applicant shall provide documentation of all required approvals before construction or operation, as applicable. Failure to obtain or maintain any required approval shall constitute grounds for withholding Township permits, delaying construction or operation, enforcement action, or revocation of Township approval.

J. Fuel, Pipeline, and Utility Facilities. The site plan shall show all natural gas metering, regulating, compression, pipeline interconnection, fuel storage, electric substation, switchyard, transformer, and interconnection equipment associated with the facility. Such equipment shall be located, screened, and maintained in accordance with the approved Site Plan, applicable safety requirements, utility clearance requirements, emergency response plan, and all required county, state, and federal approvals.

K. Emergency Response and Public Safety

1. The applicant shall provide an emergency response and fire protection plan, reviewed by the local fire authority, identifying emergency contacts, site access, gas shutoffs, electrical disconnects, hazardous materials, fire protection measures, water supply or fire suppression systems, and procedures for coordinating with local emergency responders.
2. Before construction begins, the emergency response and fire protection plan shall be reviewed by the Township fire department or fire authority. The facility shall comply with the approved plan. Any material amendment to the plan shall be submitted for fire authority review.
3. Fire suppression and emergency systems shall be inspected and tested at least annually by a qualified contractor. Proof of inspection and testing shall be submitted to the Township.
4. The owner or operator shall provide annual emergency contact information, site access procedures, hazardous material inventory information reasonably needed by responders, and training opportunities for local emergency response personnel.
5. The facility shall provide 24-hour emergency contact signage visible at the main access entrance. The signage shall include the facility name, owner or operator contact information, emergency telephone number, and utility contact information where applicable.
6. Any fire, explosion, reportable spill, gas release, major equipment failure, forced outage caused by a safety event, agency notice of violation, or emergency response incident shall be reported to the Township within twenty-four (24) hours, followed by a written summary within seven (7) days unless a longer period is approved by the Township.
7. Emergency access roads, gates, Knox boxes or equivalent access systems, fire lanes, and turnaround areas shall be maintained in usable condition at all times.

L. Annual Reporting. The owner or operator shall submit an annual compliance report to the Zoning Administrator identifying the operational status of the facility, current emergency contacts, material

permit changes, complaints received, corrective actions taken, inspections completed, landscaping and screening condition, and decommissioning financial security status.

M. Insurance and Indemnification. The applicant or operator shall maintain property/casualty insurance and commercial general liability insurance in an amount of at least Five Million Dollars (\$5,000,000.00) per occurrence. The Township shall be listed as an additional insured on the policy at all times. The applicant shall provide an attestation, in a form acceptable to the Township, that the applicant will indemnify and hold the Township harmless from costs or liability arising from approval, installation, construction, operation, maintenance, repair, decommissioning, or removal of the facility.

N. Construction, Operation, and Maintenance

1. An operations plan identifying the facility owner, operator, responsible contact person, operating parameters, inspection protocol, emergency procedures, safety documentation, and procedures for maintaining compliance with all conditions of approval.
2. Construction shall comply with the approved construction management plan. Construction hours may be limited by the Township as a condition of approval, except for emergency work, safety-critical work, or utility outage windows that cannot reasonably occur during normal hours.
3. The site shall be maintained in a clean, secure, and orderly condition. Weeds, debris, unused equipment, damaged fencing, dead landscaping, and deteriorated screening shall be corrected within a reasonable time set by the Township.
4. A material change in fuel type, generation technology, nameplate capacity, stack configuration, cooling method, major equipment location, traffic pattern, water source, wastewater discharge method, or operating profile shall require Township review and approval as an amendment to the Special Approval Use and Site Plan, unless the Zoning Administrator determines in writing that the change is minor and does not affect compliance with this Section.

~~5. A community complaint and response procedure identifying a responsible contact available twenty-four (24) hours per day during construction and operation, response timelines and recordkeeping.~~

5. Before construction begins, the owner or operator shall submit a community complaint and response procedure for Township approval and maintain it throughout construction and operation. The procedure shall provide a publicly available telephone number answered by a designated representative twenty-four (24) hours per day, seven (7) days per week, and an email address for receiving complaints, including complaints from neighboring communities. Contact information shall be posted at the main entrance and provided to the Township for publication. The owner or operator shall acknowledge each complaint within twenty-four (24) hours, promptly investigate, and provide the complainant with a written response within seven (7) days describing findings, corrective actions, or the schedule for further investigation and resolution. Conditions posing an immediate threat to health or safety shall be addressed immediately. A complaint log documenting complaints, investigations, responses, corrective actions, and resolution dates shall be maintained and provided to the Township upon request. Unresolved complaints may be referred to the Zoning Administrator for review and enforcement of applicable Township requirements.

O. Inspections.

The Township may inspect a Gas-Fired Electric Generating Facility at any reasonable time by providing twenty-four (24) hour advance notice to the applicant, owner, or operator, except in emergencies. Inspections shall be conducted in coordination with the facility operator and in accordance with applicable safety requirements.

P. Transferability.

A Special Approval Use for a Gas-Fired Electric Generating Facility may be transferred to a new owner or operator only if the new owner or operator registers its name and business address with the Township at least thirty (30) days before the transfer and agrees in writing to comply with this Section and all approvals and conditions. All special land use approvals, site plan conditions, decommissioning obligations, maintenance obligations, and financial security requirements shall run with the land and bind all successors, assigns, owners, and operators. Required financial security shall remain in effect throughout any transfer and shall not be released until acceptable replacement security is approved by the Township.

Q. Decommissioning, Abandonment, and Financial Security. The applicant shall submit a decommissioning and land reclamation plan for review and approval by the Township as part of the Special Approval Use and Site Plan approval. The plan shall describe the removal of the facility and restoration of the site if the facility is abandoned, discontinued, permanently closed, or not completed.

1. The plan shall include removal of above-grade structures, equipment, tanks, piping, foundations, utilities, and other project-related materials. Underground facilities shall be removed to a depth of at least forty-two (42) inches below grade unless otherwise approved by the Township. Removed materials shall be lawfully disposed of or recycled off site.
2. A facility shall be considered abandoned if it ceases commercial electric generation for twelve (12) consecutive months, or if construction is halted for twelve (12) consecutive months before the facility becomes operational. Upon abandonment, the owner or operator shall complete removal and site restoration within six (6) months unless extended by the Township Board.
3. To ensure decommissioning and site restoration, the applicant shall provide financial security in a form acceptable to the Township in an amount equal to one hundred twenty-five percent (125%) of the estimated decommissioning and reclamation cost, as approved by the Township. The decommissioning and reclamation cost estimate shall be prepared by the applicant or owner through a qualified professional and shall be subject to review and approval by the Township Engineer or Township consultants. Any review of the decommissioning plan or cost estimate by the Township Engineer or Township consultants shall be paid by the applicant or owner. The decommissioning cost estimate shall not be reduced by salvage value unless expressly approved by the Township Board.
4. Financial security shall be provided before issuance of any zoning compliance permit, building permit, land disturbance permit, or commencement of construction, whichever occurs first. The financial security shall remain in effect for the life of the facility and shall be reviewed at least every two (2) years. Following each review, the amount of financial security shall be adjusted as necessary to reflect the rate of inflation at that time, changes in decommissioning or reclamation costs, and any other factors affecting the estimated cost of removal and site restoration. Site restoration shall include final grading, stabilization, topsoil replacement,

drainage restoration, drain tile repair where applicable, seeding, and restoration of the property to a condition compatible with surrounding land uses.

R. Conditions, Enforcement, and Revocation. The Township may impose reasonable conditions necessary to ensure compliance with this Ordinance and to protect public health, safety, welfare, natural resources, and neighboring properties. Failure to comply with this Section, the approved Special Approval Use, approved Site Plan, approved conditions, required permit documentation, annual reporting requirements, decommissioning obligations, or financial security requirements shall constitute a violation of this Ordinance. Failure to provide, maintain, replenish, or update required financial security shall also constitute a violation of this Ordinance. The Township may revoke approval in accordance with Article 10 after notice and opportunity to be heard, and may pursue all other remedies available at law or equity.

Section 4. Validity and Severability.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 5. Repealer.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 6. Effective Date.

This Ordinance takes effect upon the expiration of 7 days after publication as required by MCL 125.3401(7).

I, Stephanie Kozar, do hereby certify that I am the duly elected and acting clerk of the Township of Milan, and I do hereby certify that this Ordinance was adopted by the Township Board of the Township of Milan, County of Monroe, State of Michigan, at a regular meeting of the Township Board held at the Milan Township Hall, on the ____ day of _____, 20____.

Vote: ____ Aye ____ Nay

THE TOWNSHIP BOARD OF THE
TOWNSHIP OF MILAN, COUNTY
OF MONROE, STATE OF MICHIGAN

By: _____
Stephanie Kozar
Milan Township Clerk

AUTHENTICATED:
By: _____
Mark Bogi
Milan Township Supervisor