

TOWN OF WARWICK
INTRODUCTORY LOCAL LAW NO. _____ OF THE YEAR 2026

A LOCAL LAW AMENDING CHAPTER 164 (ZONING) TO REGULATE BATTERY ENERGY STORAGE SYSTEMS
(BESS)

Be it enacted by the Town Board of the Town of Warwick, County of Orange, State of New York as follows:

Section 1. Title.

This local law shall be known and may be cited as the Battery Energy Storage System Law of 2026.

Section 2. Legislative Purpose.

The Town Board of the Town of Warwick hereby finds and declares:

- A. It is policy of the Town of Warwick (the “Town”) to minimize the hazards, environmental impacts, and visual impacts of battery energy storage systems (BESS) in the process of helping to achieve the green energy transition, provide an adequate energy supply to the citizenry, increase the resiliency of the electrical transmission system, and reduce fossil fuel dependence and the associated production of harmful greenhouse gas emissions. The Town recognizes that energy storage is an essential component of New York States clean energy transition but must be sited and regulated in a manner that protects public health, safety, and welfare.
- B. The Town recognizes the goals of the 2019 New York State Climate Leadership and Community Preservation Act as well as the Town's Comprehensive Plan which recommends strengthening the Building Code with regards to energy use. Orange and Rockland Utility Company estimates that by 2030 more than half of the energy used could come from renewable sources, making battery storage critically essential to a successful transition to a clean energy future. The Town acknowledges that BESS must be regulated with clear capacity thresholds, zoning limitations, and safety standards consistent with the Fire Code of New York State, NYSERDA’s Battery Energy Storage System Guidebook, and New York State fire protection standards.
- C. Fire incidents at battery storage facilities have highlighted the need to adequately address fire safety, including measures to prevent and respond to battery storage fires. The Town Board has considered the draft findings of the New York State Interagency Fire Safety Working group, last released in July of 2024 and the proposed amendments to the 2024 NYS Uniform Code (March 19, 2025 New York Department of State Proposed Rule Making) and will incorporate recommendations such as mandatory peer review; alternative explosion controls; certification of fire mitigation personnel; enhanced signage; full-time network operation monitoring; video surveillance; regimented training for first responders; refined parameters for fire alarm triggering; special inspections; root cause analysis; proper usage of water to extinguish Li-ion fires; and distances to oil-insulated transformers. Such recommendations in final form and any adopted amendments thereto per Subsection G shall be incorporated by reference herein. The Town Board finds that all BESS installations must comply with the most current New York State Uniform Fire Prevention and Building Code, NFPA 855, UL

9540A testing protocols, and all applicable NYSERDA safety recommendations, including requirements for emergency access, fire-resistant construction, thermal runaway mitigation, and 24/7 remote monitoring.

- D. Although the Town Board is adopting the best practices identified by NYSERDA, the fact remains that areas of the Town of Warwick are remote, relatively isolated, with limited access and longer response times for emergency services. The Town is empowered to regulate and restrict the development and use of property for the purpose of promoting the health, safety, morals, and general welfare of the community. Restricting land uses that may result in extensive disaster losses is an important objective, especially in locations that are near existing residences, occupied community buildings or any other location that may significantly impact the safety, welfare, and unique environmental attributes of the community.
- E. To ensure that the Battery Energy Storage Systems are designed, installed, operated, and maintained to the most rigorous standards and codes, the most current New York State Uniform Code, International Building Code, National Electric Code, International Fire Code, National Fire Protection Association standards, Underwriters Laboratory Testing standards, the International Electro-technical Commission standards, and all applicable NYSERDA guidance for Battery Energy Storage Systems, as may be amended from time to time will be incorporated by reference herein.
- F. Battery Energy Storage Systems have a wide variety of designs and underlying chemistries. Lithium-ion batteries are the dominant electrochemical grid energy storage technology because of their extensive development history in consumer electronics and electric vehicles. Characteristics such as high energy density, high power, high efficiency, and low self-discharge have made them suitable for many grid applications. The Town recognizes that energy storage systems are continually being improved through technological advances and innovation. To ensure that battery technology and equipment design has a proven track record, permitting will be restricted to Battery Energy Storage Systems that have been deployed elsewhere.

Section 3. Enabling Authority.

The adoption of this Local Law is in accordance with Section 10 of the New York Municipal Home Rule Law.

Section 4. Adding new definitions.

The following definitions are added to §164-22 (Terms defined).

AUGMENTATION (BESS) – The process of supplementing or replacing some or all of the system components to maintain the nameplate capacity.

BATTERY ENERGY STORAGE SYSTEM (BESS) - One or more devices, assembled together on a single lot or multiple lots in common ownership, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery, an electric motor vehicle, batteries installed in the equipment, devices, vehicles they are designed to power, batteries in original retail packaging that are rated at 300 watt or less or contain 25 grams or less of lithium metal, temporary storage of batteries or battery components during the service of a battery electric vehicle as it relates to auto-repair use. A battery energy storage system is classified as a Class 0, Class 1 or Class 2 Battery Energy Storage System as follows:

- A. *CLASS 0 - An accessory, behind the meter BESS with an aggregate energy capacity of 80 kWh or less.*
- B. *CLASS 1 – An accessory BESS designed to solely serve on-site electrical demand with an aggregate energy capacity greater than 80 kWh and less than the Maximum Allowable Quantities specified by the 2025 Fire Code of New York State in Table 1207.5, or 600 kWh whichever is greater.*
- C. *CLASS 2 – A BESS with an aggregate energy capacity greater than 80 kWh designed to serve off-site electrical demands, or an accessory BESS with an aggregate energy capacity greater than the Maximum Allowable Quantities specified by the 2025 Fire Code of New York State in Table 1207.5 and up to 1,000 kWh (1MWh).*

BATTERY MANAGEMENT SYSTEM (BMS) – An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected. A host network operations center (NOC) or remote operations center (ROC) that is staffed 24/7 shall monitor the system and immediately communicate critical failure notifications.

BEHIND THE METER (BTM) – A term used to describe energy generation or storage systems that are located on the customer's side of the utility meter, typically used for on-site load consumption or backup power, and potentially providing grid support services through demand response or net metering programs.

CABINET – A small-to medium-sized storage enclosure designed for the housing of battery cells. Resembles a commercial-sized refrigerator. Personnel are not able to enter the enclosure other than reaching in to access components for maintenance purposes.

COMMUNITY BENEFIT AGREEMENT (CBA) – A legally binding contract between a developer and a community organization or government body that specifies benefits the developer will provide in exchange for community support.

COMMUNITY DISTRIBUTED GENERATION (CDG) – A program that allows customers to purchase renewable electricity from a facility, such as a solar farm, without installing or maintaining equipment. The electricity generated at the facility is shared with participants as monthly credits.

CONTAINER – A large size storage enclosure used to store the components of the battery energy storage system; resembles a maritime ISO container.

COORDINATED ELECTRIC SYSTEM INTERCONNECT REVIEW (CESIR) – A comprehensive engineering study of the impact the project has on the electric utility system.

DECOMMISSIONING – A systematic process that provides documentation and procedures that allow an energy storage system to be safely de-energized, disassembled, readied for shipment or storage, and removed from the premises in accordance with applicable code requirements.

DEFLAGRATION – An exothermic reaction, such as the extremely rapid oxidation of a flammable dust or vapor in air, in which the reaction progresses through the unburned material at a rate less than the velocity of sound. A deflagration can have an explosive effect.

EMERGENCY BATTERY SYSTEMS (MOBILE BATTERY ENERGY STORAGE) – A portable battery storage system that may be mounted on trailers and towed to locations, in the same way as emergency generators or other mobile power and heating trailers for a limited specified time during emergency situations.

HAZARD SUPPORT PERSONNEL – A trained and qualified representative of the site owner/operator, who meets the requirements of §1207.1.8.1 of the 2025 Fire Code of New York State.

GRID SCALE ENERGY STORAGE (see also "UTILITY SCALE ENERGY STORAGE") – Grid scale energy storage systems capacities greater than 1MWh designed to provide grid support services, such as frequency regulation, load shifting, and backup power, to help maintain grid reliability and accommodate the integration of renewable energy sources.

INTERCONNECT AGREEMENT – A business contract between the utility and the customer for the purpose of interconnecting a distributed energy (DE) project located at the customer site to the utility's electrical distribution system.

INVERTER/RECTIFIER – A device that changes DC power to AC power or AC power to DC power.

LITHIUM-ION BATTERIES – A system comprised of one or more lithium-ion batteries assembled together, capable of storing energy in order to supply electrical energy at a future time.

NAMEPLATE AC CAPACITY – The maximum rated alternating current (AC) output that an energy storage system can store, typically expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

NAMEPLATE AC POWER RATING – The maximum sustained alternating current (AC) power output, expressed in kilowatts (kW), that a Battery Energy Storage System is capable of delivering as rated by the manufacturer. This rating shall be used for determining applicability of Class 0, Class 1, and Class 2 Battery Energy Storage System thresholds.

NEW YORK ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (NYSERDA) OCCUPIED COMMUNITY BUILDING – Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, day-care facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

POWER PURCHASE AGREEMENT (PPA) – An arrangement in which a third-party developer installs, owns, and operates an energy system on a customer's property.

RENEWABLE ENERGY – Energy generated from sustainable resources, such as solar, wind, hydro, geothermal, and biomass, which have little to no negative impact on the environment.

REPOWERING – The process of reconfiguring, supplementing, or replacing some or all of the system components to increase the nameplate capacity.

ROUND-TRIP EFFICIENCY – The efficiency of an energy storage system when accounting for both charging and discharging processes, typically expressed as a percentage.

UTILITY SCALE ENERGY STORAGE – A BESS facility that is capable of storing an amount of energy in excess of 1 MWh.

Section 5. Amending the Table of Use Requirements to add Class 0 BESS.

The Table of Use Requirements (The Table of Use Requirements (§164-40M) of the Code of the Town of Warwick is hereby amended to designate a new use “A35” under “Accessory Uses,” as “Battery Energy Storage System, Class 0,” which should be identified as a “P” permitted use in the AI, RU, MT, CO, SL, SM, TN-O, OI, LB, DS, SH-F, LC and CB zoning districts, subject to special condition 156¹.

Section 6. Amending the Table of Use Requirements to add Class 1 BESS.

The Table of Use Requirements (The Table of Use Requirements (§164-40M) of the Code of the Town of Warwick is hereby amended to designate a new use “A36” under “Accessory Uses,” as “Battery Energy Storage System, Class 1,” which should be identified as a “P” permitted use in the AI, RU, OI, LC and CB zoning districts, subject to special conditions 53², 81³, 82⁴, and 156.

Section 7. Amending the Table of Use Requirements to add Class 2 BESS as an accessory use.

The Table of Use Requirements (The Table of Use Requirements (§164-40M) of the Code of the Town of Warwick is hereby amended to designate a new use “A37” under “Accessory Uses,” as “Battery Energy Storage System, Class 1,” which should be identified as an “S” special permit use in the AI, RU, OI, LC and CB zoning districts, subject to special conditions 53, 81, 82, and 156.

Section 8. Amending the Table of Use Requirements to add Class 2 BESS as a principal use.

The Table of Use Requirements (The Table of Use Requirements (§164-40M) of the Code of the Town of Warwick is hereby amended to redesignate use 66 currently listed as “Reserved,” under the “Business Uses” as “Battery Energy Storage System, Class 2,” which should be identified as an “S” special permit use subject to use group “c” in the OI zoning district, subject to special conditions 53 [Use of the Town of Warwick Design Standards is mandatory and such Standards can be found in Appendix A of the Zoning Law.], 81 [The performance standards called for in § 164-48 shall apply to the specified use], 82 [No operation will be permitted within 1,000 feet of any residence, residence district, or within 200 feet of any designated protection area], and 156 [New condition applicable to BESS – see section 9 of this local law]

¹ [New condition applicable to BESS – see section 10 of this local law]

² [Use of the Town of Warwick Design Standards is mandatory and such Standards can be found in Appendix A of the Zoning Law.]

³ [The performance standards called for in § 164-48 shall apply to the specified use]

⁴ [No operation will be permitted within 1,000 feet of any residence, residence district, or within 200 feet of any designated protection area]

Section 9: Adding a new “special condition” to site plan and special uses.

A new special condition shall be added to Paragraph J of §164-46 as follows:

(156) All battery energy storage systems shall be subject to §164-49.3.

Section 11: Adding a new section regulating BESS.

A new section §164-49.3 entitled “Battery Energy Storage Systems” is hereby added as follows:

§16-49.3 Battery Energy Storage Systems (BESS).

- A. *In addition to any special conditions prescribed in the Table of General Use Requirements, all Battery Energy Storage Systems ("BESS") shall conform with the following requirements.*
- (1) The BESS shall be designed and installed in accordance with all applicable State Codes including the Fire Code of New York State as may be amended from time to time and applicants must provide adequate documentation to demonstrate how the proposed system meets these requirements.*
 - (2) The BESS shall only be permitted on a lot with access from an improved mapped street or as otherwise approved pursuant to §Town Law 280-a.*
 - (3) All Battery Energy Storage Systems approved by the Planning Board shall require a building permit.*
 - (4) An NFPA Diamond sign or Town-approved alternative indicating the presence of the BESS shall be placed along the driveway of any site or structure containing a BESS at a location approved by the Fire Code Official that will be conspicuous to emergency service responders, but also screened from significant public view to the extent practicable.*
- B. *Class 1 BESS shall conform with the following requirements.*
- (1) The BESS shall be subject to site plan review.*
 - (2) The BESS shall only be located on a conforming lot of at least 1 acre.*
 - (3) The BESS shall not be located within the following areas:*
 - (a) 1,000 feet of any residence or lot located in a residence district,*
 - (b) Within 200 feet of a Designated Protection Area*
 - (c) Within 200 feet of a structure or site listed or identified as eligible for the State or National Register of Historic Places*
 - (d) Within a FEMA special flood hazard area*
 - (e) Within an Aquifer Protection District*
 - (4) The facility operator/owner shall indemnify the Town and hold the Town harmless from and against any and all claims, causes of action, liability, damage, loss, cost or expense (including reasonable attorneys' fees) arising out of or related to the use, maintenance, or operation of the BESS or arising out of or related to the site plan approval.*
 - (5) Prior to the site plan approval and subject to review by the Town Attorney's office, the applicant shall furnish the Town with a comprehensive liability insurance policy, insuring the applicant and/or property owner against liability for damage to persons or property, with limits as established by*

resolution of the Planning Board, which policy shall name the Town as an additional insured and shall not be cancelable without at least 30 days' prior written notice to the Town. Additional comprehensive liability insurance policies, naming the Town as an additional insured, may be required.

- (6) BESS shall, where feasible, have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the existing terrain, character of the property and surrounding area. Such screening shall not interfere with airflow or exhaust elements of the BESS.*
- (7) Fire apparatus shall be given adequate access throughout the site to the satisfaction of the Fire Code Official and areas within the site that may be utilized for staging an emergency response shall be indicated on the plans and arranged to not impede the normal operation of adjacent roadway networks.*
- (8) Enclosure. Outdoor BESS shall be housed in permanent stationary cabinets or containers constructed in accordance with all applicable standards and codes and placed upon a poured concrete pad that shall be specified in the plans to the satisfaction of the Planning Board Engineer.*
- (9) Areas within 20 feet on each side of a BESS enclosure shall be cleared of vegetation and any tree stumps removed. Site design shall ensure that the removal of mature/large caliper trees is minimized.*
- (10) Gravel or other suitable material shall be placed within the 20-foot area around an enclosure.*
- (11) Fencing requirements.*
 - (a) Battery Energy Storage Systems, including all dedicated mechanical equipment and appurtenances shall be enclosed by a fence having a minimum height of six feet and maximum height of 8 feet with a self-locking gate to prevent unauthorized access and shall not interfere with ventilation or exhaust ports.*
 - (b) Fencing shall be constructed with approved non-flammable materials.*
- (12) Right-of-way and utility lines.*
 - (a) The minimum required front setback shall be in accordance with §164-40N, Table of Bulk Requirements, but in no case less than 75 feet.*
 - (b) All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, except for the main service connection at the utility company right-of-way and any interconnection equipment, including without limitation any poles, with new easements and right-of-way.*
 - (c) Overhead wires connecting the BESS facility to an energy generation station or substation shall not be permitted, unless the parcel containing the energy generation station or substation immediately abuts the parcel on which the BESS is proposed and existing overhead connections are present.*
- (13) Fire suppression systems dependent on PFAS (polyfluoroalkyl substances) are prohibited.*

(14) *Signage. The size, location, appearance and contents of signage meeting the requirements of the 2025 Fire Code of New York State shall be identified on the site plan.*

(a) *Signs shall be additionally placed along the outside of the outermost facility perimeter fence line. The site plans shall indicate this signage location.*

(15) *Lighting. Lighting of the Battery Energy Storage Systems shall be limited to that minimally required for safety, security and operational purposes and shall with the standards of §164-43.4.*

(16) *Noise. The one-hour average noise generated from the Battery Energy Storage Systems, components, and associated ancillary equipment shall comply with noise standards found in Town Code § 164-48C(3). Applicants may submit equipment and component manufacturer's noise ratings to demonstrate compliance. At the time of required periodic inspections, the applicant may be required to provide operating sound pressure level measurements from a reasonable number of sampled locations at the perimeter of the Battery Energy Storage System to demonstrate ongoing compliance with this standard.*

(17) *Drainage.*

(a) *All site contours will be confirmed with site surveys to confirm drainage patterns and not assumed from Lidar.*

(b) *A stormwater pollution prevention plan (SWPPP) shall be provided where required pursuant to §164-47.10, except where waived by the Planning Board Engineer upon a review of the proposed BESS, existing and proposed site conditions and a finding that a SWPPP is not necessary to serve the purposes and objectives of §164-47.10A and B.*

(18) *Class 1 BESS, shall require Third Party Fire Safety Inspection as described in §1207.14 of the Fire Code of New York State upon commissioning and biennially thereafter, irrespective of whether such inspection is required by the Fire Code based on whether the BESS exceeds the Maximum Allowable Quantities prescribed by the Fire Code.*

C. *Class 2 BESS shall conform with the following requirements.*

(1) *Any and all requirements of Class 1 BESS.*

(2) *The BESS shall only be located on a conforming lot of at least 3 acres.*

(3) *The BESS shall not be located within 1/2 mile of a lot containing a hospital, school, institution of higher learning, public library, rest or convalescent home, nursery school or adult day care facility.*

(4) *The BESS shall not be located within 1,000 feet of an improved public park, playground or place of worship*

(5) *The site shall have continuous access via roads and driveways meeting the Building code requirements for a fire apparatus road from a State or County highway.*

(6) *Protection of groundwater*

(a) *Water, or other liquid agents used to suppress fire or other emergency event shall be collected and retained on-site in accordance with any design recommendations of the Planning Board Engineer and the Warwick Fire Department.*

- (b) *The emergency runoff retention system shall be sized to hold at least 10,000 gallons, designed to collect emergency runoff within 20 feet of the battery enclosures, and further require a severable storm drain connection to be closed during emergency situations so that potentially contaminated water/agents cannot drain from the site.*
 - (c) *Agents/liquids for firefighting retained during a fire or other emergency event shall be tested for contaminants and filtered if pollutants exceed the total maximum allowable concentration established by the NYS Water Quality Standards Program guidelines, prior to disposal.*
 - (d) *The Planning Board may waive the requirements for a runoff retention system where based on an improved First Responder Pre-Incident Plan, use of liquids or agents is unlikely during fire responses.*
- (7) *Class 2 BESS, shall require Third Party Fire Safety Inspection as described in §1207.14 of the Fire Code of New York State upon commissioning and annually thereafter.*
- (8) *In granting a special exception use, the Planning Board may impose conditions as are reasonably necessary to minimize any adverse impacts from the proposed BESS facility and to ensure the health, safety and general welfare of the public.*
- D. *Application for a Class 1 or 2 BESS. As part of any application for a Class 1 or 2 BESS, the following information shall be submitted. As with any other site plan or special use permit application, the Planning Board is authorized to retain such professionals as are necessary to assist the Board in its review of the application. The Planning Board in its sole discretion may defer any of the following application requirements where it determines that a substantively similar review will be required by the Fire Code of New York State during the course of Building Permit review and where the applicant is required or consents to funding a peer review as described in §1207.12.2 of the Fire Code of New York State.*
- (1) *A site plan meeting the requirements of §164-46G.*
 - (2) *The construction documents required by §1207.1.5 of the 2025 Fire Code of New York State.*
 - (3) *A project narrative that specifies the type of energy storage system and product description, which includes the storage technology type, manufacturer, kW and kWh capacity, roundtrip efficiency and the intended uses of the energy storage system.*
 - (4) *Owner's endorsement or other documentation that demonstrates the applicant has obtained or is under a binding contract to obtain title or a leasehold interest in all properties comprising the facility site.*
 - (5) *Applicants shall provide credentials that demonstrate that the legal entities involved in commissioning, operating, maintaining, and decommissioning of the BESS facility possess the requisite financial ability to complete the contract, accountability, reliability, skill, sufficiency of capital resources, judgment, integrity and moral worth, as determined by the Planning Board and Town Attorney. Proof may include, but is not limited to current licenses, inclusion on New York State compiled lists of qualified entities for*

commercial and industrial BESS facilities and/or a track record of the successful commissioning of similar BESS facilities.

- (6) A one- or three-line electrical diagram detailing the BESS layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.*
- (7) A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit. All proposed equipment shall be listed with their associated certifications.*
- (8) Where appropriate, equipment shall have an accompanying root cause analysis finding from the original equipment manufacturer or publicly available safety datasets specifying reported fire incidents involving any make and/or model of the proposed equipment.*
- (9) A Commissioning Plan as described in §1207.2.1 of the 2025 Fire Code of New York State, for all Class 1 and 2 BESS.*
- (10) A First Responder Pre-Incident Plan meeting the requirements of §1207.13 of the 2025 Fire Code of New York State shall be provided. Such pre-incident plan will contain all suggested contents of the NFPA 855 as well as the following additional information:*
 - (a) The results of a toxic and flammable gas plume air dispersion analysis for the anticipated BESS equipment in a severe fire emergency scenario to assess potential impacts on surrounding communities.*
 - (b) A commitment to conduct, or 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 shall be designed to familiarize the associated fire, police and all other first responding agency personnel in the jurisdictional area, with the project, hazards, procedures, and current best practices.*
 - (c) A commitment to review and update the FRP with the Office of Emergency Management, and Fire Department Chief, and Orange County emergency managers and/or designees, at least once every three years.*
 - (d) An analysis of whether plans to be implemented in response to a fire emergency can be fulfilled by existing local emergency response capacity. The analysis should include identification of any specific equipment or training deficiencies in local emergency response capacity and recommendations for measures to mitigate deficiencies.*
 - (e) Other information as determined necessary by the Planning Board.*
- (11) A Fire Evacuation Plan meeting the requirements of §404.2.1 of the 2025 Fire Code of New York State shall be provided.*
- (12) A Fire Safety Plan meeting the requirements of §404.2.2 of the 2025 Fire Code of New York State shall be provided.*

(13) *An operation and maintenance (O&M) manual meeting the requirements of §1207.2.2 of the 2025 Fire Code of New York State shall be provided, and which shall be supplemented with the following information and requirements:*

(a) *A third-party fire safety inspection shall be required for all Class 1 and 2 BESS meeting the requirements of §1207.14 and §1207.14.1 of the 2025 Fire Code of New York State.*

(b) *along with the following supplemental information:*

(14) *A decommissioning plan meeting the requirements of §1207.2.3 of the 2025 Fire Code of New York State shall be provided supplemented with the following information::*

(a) *Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.*

(b) *The anticipated life of the Battery Energy Storage System.*

(c) *The estimated decommissioning costs and how said estimate was determined.*

(d) *The method of ensuring that funds will be available for decommissioning and restoration shall be subject to Town Attorney review and approval.*

(e) *The method by which the decommissioning cost will be kept current.*

(f) *The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the Battery Energy Storage System, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed.*

(g) *A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.*

(h) *The owner and/or operator of the BESS shall implement said plan upon abandonment and/or in conjunction with removal from the facility.*

(i) *Decommissioning fund/bond. The owner and/or operator of the energy storage system shall continuously maintain a fund in the form of a cash or decommissioning bond payable to the Town of Warwick, in a form and amount approved by the Town for the removal of the Battery Energy Storage System, for the period of the life of the facility. All costs of the financial security shall be borne by the applicant.*

(15) *Fee.*

(a) *The fee schedule shall be established, and changed as needed, by resolution of the Warwick Town Board. A copy of the fee schedule is on file with the Town Clerk's office and the Building Department.*

- (b) *The Planning Board shall have the authority to waive or modify the fee as necessary to pay for the cost of technical consultants to peer review all application submissions.*
- (16) *Where an applicant proposes to store energy for use off-site, they will provide the following documents and analyses.*
- (a) *A copy of the interconnection application and any findings/reports generated through the processing of the interconnection application.*
 - (b) *Interconnection agreement/contract or interconnect permission to operate letter.*
 - (c) *Power Purchase Agreement.*
 - (d) *Coordinated Electric System Interconnect Review (CESIR).*
 - (e) *An assessment of the suitability of the site including but not limited to an analysis of geology, hydrology, groundwater, soil, threatened/endangered species, scenic resources, cultural/historical resources, electrical grid hosting capacity, interconnection requirements, and man-made/natural hazards.*
 - (f) *An examination of alternate sites.*
 - (g) *An inventory of approved and proposed BESS facilities, of which the applicant is aware that are within one mile of the applicant's project area irrespective of municipal and county jurisdictional boundaries. Said submission shall include specific information about the location, size and design of each BESS facility.*
 - (h) *Air dispersion modeling to determine the potential extent and resulting effects of a deflagration event.*
 - (i) *A final equipment specification sheet and final interconnect agreement from Orange & Rockland Utility Company or the local energy provider (or successor) shall be submitted prior to final inspection and maintained on-site and filed with the Building Department.*
- E. *Modifications/augmentation/repair of Class 1 or 2 BESS. Where a BESS has received site plan approval from the Planning Board, the following activities are exempt from further site plan review, but shall require a building permit, an electrical permit and delivery and/or removal from the site must also be coordinated (date/time/route) with emergency services:*
- (1) *Replacement of battery cells of the same electrochemical composition, design and quantity (i.e., not increasing the aggregate nameplate AC energy capacity).*
 - (2) *Upgrades or servicing to electrical equipment, safety equipment, interconnect devices, and associated hardware that support a certified and approved BESS, provided that it shall not increase the BESS enclosure area/footprint.*
- F. *Temporary emergency power supply. Mobile units with an energy storage capacity up to 1MWh are exempt from these provisions when authorized by the Town Supervisor, for a term of no more than 90 days with documentation certifying that:*
- (1) *The mobile unit conforms with the 2025 Fire Code of New York State.*

- (2) *It is reasonably necessary for the health, safety and general welfare of the community due to reasonably unforeseen circumstances such as a natural disaster, transportation accident, or act of aggression.*
 - (3) *Location, connection, operation, and monitoring of the BESS shall be coordinated with the "Incident Commander" be it the Emergency Management Administrator, Fire Marshal, Chief of Police or an approved designee.*
- G. *Violations. Where a violation of this article has been committed or shall exist, the owner or the real property and the owner, agent or contractor of the BESS facility where such violation has been committed or shall exist, the lessee or tenant of the part of or of the entire BESS facility where such violation has been committed or shall exist, and/or the agent, contractor, or any other person who takes part or assists in such violation or who maintains any BESS facility in which any such violation shall exist shall be guilty of a violation of this article.*
- H. *Criminal penalties.*
- (1) *Class 1 BESS. A violation of this article with respect to a Class 1 BESS is hereby declared to be an offense, punishable by a fine not exceeding \$1,000.00 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$1,000.00 nor more than \$1,500.00 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$1,500.00 nor more than \$2,500.00 or imprisonment for a period not to exceed six months, or both.*
 - (2) *A violation of this article with respect to a Class 2 BESS is hereby declared to be an offense, punishable by a fine not exceeding \$2,500.00 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$2,500.00 nor more than \$5,000 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$5,000.00 nor more than \$7,500.00 or imprisonment for a period not to exceed six months, or both.*
 - (3) *For the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of this article shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.*
- I. *Administrative and civil penalty.*
- (1) *In addition to all administrative, civil, and other remedies available, where a person has been found guilty of a violation of this article after trial or a plea of guilty, and the Building Inspector determines that the violation continues to exist 30 days after such conviction, the Building Inspector shall certify the violation in writing to all other local agencies responsible for the issuance of approvals and permits under this article. A copy of the certification shall be*

mailed to the owner of the property as listed on the most recent assessment roll on file in the Tax Assessor's office. However, failure to notify the property owner shall not have any effect on the validity of the certification.

- (2) The certification shall include the location of the property by Orange County Tax Map number, the name of the individual or entity convicted of the violation and his or her relationship to the property and the nature of the violation.*
 - (3) After receipt of the certification, no local board or agency shall accept, determine to be complete or otherwise process a new application or issue any approval with respect to a pending application under this article for the subject property.*
 - (4) Until the violation identified in the certification has been removed or corrected or the Building Inspector has determined that the illegality no longer exists by virtue of a valid approval having been obtained to permit the structure or use that was certified as a violation, any time periods contained in the Town Law or in this article for action on an application shall be tolled for all purposes.*
 - (5) After the violation has been removed or corrected or no longer exists by virtue of a valid approval having been obtained to permit the structure or use that was certified as a violation, the Building Inspector shall immediately rescind the certification and notify all boards and agencies that received the certification, in writing, that administrative review of applications on the property may be resumed.*
 - (6) After the violation has been removed or corrected or no longer exists by virtue of a valid approval having been obtained to permit the structure or use that was certified as a violation, the Building Inspector shall immediately rescind the certification and notify all boards and agencies that received the certification, in writing, that administrative review of applications on the property may be resumed.*
- J. Blight mitigation surcharge. Anyone convicted pursuant to this section shall be required to pay a mandatory blight mitigation surcharge of \$1,000.00. The blight mitigation surcharge shall be paid to the Town of Warwick Building Department.*
- K. In addition to any other remedies provided by law, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use; to restrain, correct or abate such violation; or to prevent any illegal act, conduct, business or use in or about such premises.*

Section 12. Severability.

If a court of competent jurisdiction determines that any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 13. Inconsistency.

All other local laws and ordinances of the Town of Warwick that are inconsistent with the provisions of this local law are hereby repealed; provided, however, that such repeal shall be in addition to such other local laws or ordinances regulating and governing the subject matter covered by this local law.

Section 14. Code Preparation.

The Town's Code preparation contractor is authorized, without further action of the Town Board, to correct typographical errors, numbering and other related technical changes that do not affect or alter the substantive provisions of this local law.

Section 15. Effective date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the New York Municipal Home Rule Law.