

TOWN OF STONY POINT

LOCAL LAW NO. __ OF 2026

A LOCAL LAW IMPLEMENTING A MORATORIUM ON THE DEVELOPMENT AND CONSTRUCTION OF ELECTRIC BATTERY ENERGY STORAGE UNITS

Section 1. Legislative findings and intent.

The Town Board (“Board”) of the Town of Stony Point, New York (“Town”) hereby finds that there is a critical and compelling need, in the public interest as set forth herein, to impose a moratorium on the development and construction of Battery Energy Storage Systems “BESS”) as further described hereafter.

- A. These BESS facilities represent cleaner renewable sources of energy, and can be found in small, residential systems as well as larger, industrial systems to create and store energy. For the purpose of this moratorium, a BESS is defined as one or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle.
- B. However, it has come to the Town’s attention that despite the benefit of clean, renewable fuel that the Electric Battery Energy Storage Units can afford, there is an inherent risk present in some of these systems as evidenced by the fire hazards that they pose.
- C. It has come to the Town’s attention that certain batteries and battery energy storage systems pose an inherent and dangerous fire risk, as evidenced by three (3) fires that have inexplicably broken out at these facilities in the Town of Warwick in neighboring Orange County, and numerous fires elsewhere around the Country. The concern of the Town lies in multiple parts including, the origin of the fires, that current fire suppression techniques are rendered impotent by the battery’s contents, the duration of the fires, the risk of human life and property damage associated with the fires themselves, and the environmental consequences associated with the smoke and chemical particulate matter released during the duration of the fire.
- D. On December 19, 2025 a fire broke out during heavy rain at an Energy and Power facility in Warwick, New York, though officials as quoted in press reports surrounding the fire characterized the fire as small, it still took over 24 hours to extinguish. Further, during such fire, hydrogen cyanide was detected in air quality samples during the fire at 0.5 parts per million, which is about half of the maximum allowable amount under federal guidelines.
- E. Lithium-ion batteries are reported to be particularly difficult to extinguish, due in part that damaged and overheated cells can reignite repeatedly, even after flames seem to be under control.

- G. The Town Board finds that considering the inherent risk imposed by a chemical fire that is extinguishable only by exhausting its own fuel source, the Town Board shares the concerns of the public. Especially those who live or work in buildings and homes near these facilities for a number of reasons, including but not limited to environmental concerns related to the short- and long-term release of smoke, chemicals and particulate into nearby properties and neighborhoods.
- H. The Town Board finds that the Town's Zoning Local Law does not adequately address the safety concerns that have come to the board's attention, including but not limited to setbacks to adjacent properties, fire suppression systems and environmental mitigation systems.
- I. Considering the inherent risk associated with such systems, the Town Board needs to evaluate amendments to the Town code to properly address public safety, emergency response capabilities as well as land use and environmental impacts associated with battery storage facilities. These circumstances require that the Town Board undertake, without delay, a review of the existing and anticipated uses in the Town and the consideration of Town zoning regulations to regulate the construction of Battery Energy Storage Systems.
- J. The Town Board hereby finds that the adoption of a moratorium on the development of Battery Energy Storage Systems is required in order to best maintain the status quo during the review and enactment period in order to prevent interim development from frustrating the objectives of such review and enactments. The Town is mindful of and will consider that State regulations have imposed requirements on these facilities that are aimed at promoting and ensuring the safety of such sites.

Section 2. Scope of Moratorium.

- A. Moratorium on the issuance of non-residential building permits and other actions: No building permit application shall be accepted, and no pending building permit application shall be further processed or approved, and no suspended or revoked building permit shall be reinstated for any Battery Energy Storage Facilities located within the Town of Stony Point.
- B. Moratorium on actions by the Town Board, Planning Board and Zoning Board of Appeals: The Town Board, Planning Board and Zoning Board of Appeals shall not process, hear, rehear, approve or sign any new or pending preliminary or final site plan, preliminary or final subdivision, special permit, variance or other land use application or permit which relates directly or indirectly to construction of such Battery Energy Storage Facilities including but not limited to any grading permit, erosion and sediment control permit, wetland permit, sewer connection permit, floodplain development permit, water connection permit, which may be granted in association with any such construction.

- C. Moratorium and provisions of Town Law: To the extent that any provision of New York State Town Law imposes a time frame for action by a municipal entity, board or body so that a default approval will result from any inaction, the time for any action required by any Town Board, Body, Agency or other entity shall be and is hereby extended until this moratorium and any as well as all extensions thereof have expired and have not been extended by the Town Board. Therefore, no default approval shall be deemed to have taken place with regard to any application for any approval concerning land use development by reason of this moratorium being in effect.

Section 3. Hardship review.

- A. Upon a showing of severe hardship (defined as no economic return on any land purchase), the Town Board may vary from the moratorium imposed in Subsection 2 hereof if it determines, in its absolute discretion, that granting such relief is consistent with the health, safety and general welfare of its inhabitants of the Town and their property and in harmony with the spirit and purposes of this Local Law.
- B. When the Town Board considers such a variance as set forth herein at § 3(A) from the moratorium law, it should consider the following:
- (1) In considering a variance, the Town Board may request the following information in order to render a decision:
 - (a) studies, reports, resolutions of preliminary and/or final approval, issued with or without conditions;
 - (b) any SEQRA documents and findings statement, Negative Declaration with or without conditions, including generic or supplemental environmental impact statements which may have cumulatively evaluated the impacts associated with certain land use applications;
 - (c) any special exception permit plan, site plan or subdivision plan, and map notes; all representations of the developer/applicant with regard to the dimensional standards of the zoning district within which the development is located, including but not limited to lot coverage, impervious surface coverage, residential building size, occupancy and other design parameters which served as the basis for SEQRA review, Stormwater Pollution Prevention Plan (“SWPPP”) review, and infrastructure approval and design, including methods of water supply, wastewater disposal, stormwater control, drainage, and transportation approvals;
 - (d) any violations which have been issued, and the status of same;
 - (e) any other related documents upon which the Planning Board or Zoning Board of Appeals relied in issuing an approval, and whether a variance issued from the moratorium law will be issued consistent with all resolutions of approval and SEQRA findings;
 - (f) the status of other agency permits and approvals, and whether those approvals or permits, if not issued, will be issued during the time period established by the moratorium law. The Town Board may require that the developer/applicant submit evidence that the approval or permit will be issued during the moratorium time period;

(g) whether the developer/applicant is requesting a variance from this moratorium law for a project which proposes to vary from, or does not meet all previous decisions rendered by the Planning Board or Zoning Board of Appeals.

(2) It shall be the obligation of the developer/applicant to furnish these documents to the Town Board during the appeal process. The Town Board shall specifically consider, among other factors: whether the proposed land use or development is and will continue to be consistent with and comply with all previous decisions and findings; and, whether the developer/applicant is presently in front of the Planning Board or Zoning Board of Appeals requesting a waiver from any previous approval or finding, and the type of waiver being sought.

(3) The Town Board may limit a variance from the development moratorium to specific prescribed activities, including but not limited to, activities which allow a developer/applicant to meet any conditions to remediate a violation.

- C. An application for variance for this moratorium shall be made by the applicant supplying to the Town Clerk not more than sixty (60) days after enactment of this moratorium a Verified Petition signed by the owner of the subject property and any applicant for Town approvals setting forth all of the information required pursuant to Section 3(B) herein together with such additional information that the applicant or property owner seeking a variance desires to obtain from the Town Board. Within ten (10) days of receipt of said Verified Petition, the Town Clerk shall cause the scheduling of a public hearing to be placed on the next available Town Board meeting agenda and the Town Board shall schedule such public hearing no less than thirty (30) days from the date of such meeting, but in no event more than forty-five (45) days after the date of such meeting. The Town Clerk shall cause a Public Hearing Notice to be published at least 5 days prior to such public hearing date. The applicant shall have an opportunity to produce such evidence, documents and call witnesses in support of the application for a variance from this moratorium at the time of the Public Hearing established by the Town Board. No more than thirty (30) days after the close of the Public Hearing the Town Board shall act to either grant, deny or otherwise consider the application for a variance.

Section 4. Application of Law to existing land use provisions.

This Local Law shall supersede any and all Town Law or other provisions of law, rule or regulation that require specific action upon an application before the Planning Board or Zoning Board of Appeals. This moratorium is being adopted by Local Law pursuant to Municipal Home Rule Law procedures and this moratorium suspends any subdivision approval time requirements and also supersedes and suspends any “default approval” provision of the Subdivision statutes of the Town Law or any other applicable laws. This moratorium supersedes any Town Law or Town Code provisions to the contrary that require any specific action on an application by any Town Board, Planning Board, Zoning Board of Appeals or other land use Boards within the Town. This moratorium Law also supersedes any New York State or Local Laws, rules or regulations pertaining to the grant of any variance authority by the Zoning Board of Appeals, it being the intention of this Local Law that any grant of variances to any other Boards or bodies than this

Town Board is hereby superseded by this Local Law so as to vest any variance approval solely in the Town Board pursuant to this Local Law. To the extent that this local law is deemed preempted by state or federal law enactments with respect to any proposed system, such preemption shall only apply to such system, and the existence of any such preemption shall not otherwise affect the validity of this local law with respect to other BESS facilities.

Section 5. Expiration of moratorium.

This Local Law shall expire without further action by the Town Board eight (8) months following the effective date hereof and thereafter shall be thereafter of no force or effect. However, if it appears that any required review and study referred to hereinabove will not be completed within eight (8) months from the effective date of this Local Law, the Town Board may, by Local Law, extend the period of this moratorium for an additional six (6) months or for such other time period that the Town Board determines is reasonable in scope and duration.

Section 7. State Environmental Quality Review Act.

Pursuant to 6 NYCRR 617.5 (36) this Local Law is classified as Type II action which requires no further review under the State Environmental Quality Review Act.

Section 8. Severability.

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which such judgment shall have been rendered.

Section 9. Effective date.

This Local Law shall become effective immediately upon being filed with the Secretary of State.