

**Local Law Enacting a Temporary Moratorium on the Approval of
Commercial Battery Energy Storage Systems within the Town of Salem**

Section 1. Title:

This Local Law shall be referred to as the “Local Law Enacting a Temporary Moratorium on the Approval of Commercial Battery Energy Storage Systems within the Town of Salem.”

Section 2. Statutory Authority, Purpose and Intent:

This Local Law is adopted pursuant to the authority vested in the Town Board of the Town of Salem pursuant to Municipal Home Rule Law §10 of the State of New York to regulate and control land use, and to protect the health, safety and welfare of its residents of the Town of Salem by enacting a six (6) month moratorium on the approval of any and all applications relating to the siting, development, construction, establishment, or creation of commercial battery energy storage systems.

Section 3. Legislative Findings:

- A. The Town of Salem Town Board hereby finds that without a temporary moratorium on the processing, permitting and approval of commercial battery energy storage systems there is a potential that such uses could be located in unsuitable areas within the Town and/or on particular parcels of land without adequate dimensional regulations in place, without adequately considering the visual effects of such uses, without adequately considering the continuity of agricultural lands and lands located within scenic views in the Town, and without adequately considering the health, safety and environmental impacts to water, environmental and agricultural resources. The potential for the unsuitable location of and lack of proper regulations for such uses would have materially adverse impacts on the Town and on the general health, safety and welfare of its residents.
- B. The Town Board recognizes and finds that time is required to review and examine its existing ordinances, local laws and land use regulations with respect to the impact of commercial battery energy storage systems so that suitable legislation can be drafted and adopted to control the location, size, configuration and permitting of such use so as to harmoniously integrate such use with the existing rural, agricultural and scenic landscape of the Town, to protect the general health, safety and welfare of the residents, and to protect water, environmental and agricultural resources located within the Town.
- C. The Town Board further finds and determines that it requires the six (6) month moratorium period imposed herein in order to carefully review the existing Town Laws as they apply to such use and to complete the enactment and/or amendment to Town Laws, schedule and hold the required public hearings, either on amendments to existing

Local Laws or the enactment of new Local Laws, perform the appropriate environmental reviews thereof, comply with applicable provisions of law, adopt the Local Law(s), and file the same with the Secretary of State of the State of New York.

- D. For the foregoing reasons, the Town Board finds that the temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to adopt and/or amend Town Laws, thus protecting and furthering the public interest, health and safety of the residents of the Town of Salem.

Section 4. Body, Temporary Moratorium and Prohibitions:

- A. Commencing October 8, 2025, and during the term of the moratorium, or any extension thereof, no new application for a permit, variance, subdivision, site plan approval, or other Town approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, nor shall any permit or approval be issued by any board, employee, official or agent of the Town of Salem for the siting, development, construction, establishment, or creation of a commercial battery energy storage system.
- B. Commencing October 8, 2025, and during the term of the moratorium, or any extension thereof, no person shall use, cause, or permit to be used, any land, body of water, building, or other structure for any commercial battery energy storage system.
- C. This moratorium and the prohibitions set forth herein shall be in effect immediately upon its adoption and subsequent filing with the Secretary of State and shall expire pursuant to its terms herein, or on the effective date of a Town Board resolution affirmatively stating that the Town Board has determined that the need for this moratorium and the prohibitions set forth herein are no longer necessary or required.
- D. This moratorium and the prohibitions set forth herein shall apply to all real property located within the Town of Salem and all land use applications for the siting, development, construction, establishment, or creation of a commercial battery energy storage system.
- E. Under no circumstances shall the failure of the Town Board, Town Planning Board or other official of the Town of Salem to take action upon any new applications for a permit, variance, subdivision, site plan approval, building permit or other Town approval, of any kind or nature, in connection with the siting, development, construction, establishment, or creation of a commercial battery energy storage system constitute an approval by default or an approval by virtue of the expiration of time to respond to any such applications.
- F. This moratorium and the prohibitions set forth herein shall not apply to a commercial battery energy storage system for which approvals and/or permits were issued by the Town prior to October 8, 2025.

- G. The term of this moratorium and the prohibitions set forth herein shall be for a period of six (6) months from the effective date, with the Town Board being permitted to extend the moratorium for two additional six (6) month periods if determined as appropriate by resolution of the Town Board.

Section 5. Definitions: For the purposes of this Local Law the following terms shall have the meanings respectively set forth below:

- A. **COMMERCIAL BATTERY ENERGY STORAGE SYSTEMS** – Any rechargeable energy storage system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems and associated electrical equipment with an aggregate energy capacity greater than or equal to 600kWH, designed mainly, but not exclusively, to store and distribute energy produced by large-scale solar energy facilities, wind generated energy facilities and alternative energy facilities.

Section 6. Penalties:

- A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500.00) or imprisonment for not more than ten (10) days, or both, for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00) or imprisonment for a period of not more than 30 days, or both. For the purpose of this paragraph, each day that a violation of this Local Law exists shall constitute a separate and distinct offense.
- B. Compliance with this Local Law may also be compelled, and violations restrained by order or by injunction of a court of competent jurisdiction, in any action brought on behalf of the Town by the Town Board.
- C. In the event the Town is required to take legal action to enforce this Local Law, the opposing party shall be responsible for any and all costs incurred by the Town relative thereto, including attorney's fees and paralegal's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within thirty (30) days from the date it is determine and assessed by the court, such expense shall be charged to the property(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property(ies), and such expense shall be a lien upon such property(ies) until paid.

Section 7. Validity and Severability:

If any provision of this Local Law is determined to be unconstitutional or invalid, the validity and enforceability of the remainder of the Local Law shall not be affected

Section 8. State Environmental Quality Review Act (SEQRA):

The Town Board has considered the provisions of Article 8 of the Environmental Conservation Law ("SEQRA") and the regulations adopted hereunder at 6 NYCRR part 617 and find this Local Law to be a Type II Action as defined therein. Therefore, no further review is required under SEQRA.

Section 9. Effective Date:

This Local Law shall take effect immediately upon the filing with the Secretary of State.