

Local Law 3 of 2026

A Local Law Prohibiting Commercial Battery Energy Storage Systems within the Town of Salem, Washington County, New York

Be it enacted by the Town Board of the Town of Salem, Washington County, New York, as follows:

Section 1. Legislative Findings and Intent:

It is the intent of this local law to prohibit the installation, construction and/or development of commercial battery energy storage systems within the Town of Salem.

The Town Board of the Town of Salem previously enacted a moratorium temporarily prohibiting the review of applications seeking approval of battery energy storage systems (BESSs). The moratorium law states that the Town Board will review the final State safety regulations and other sources pertaining to BESSs prior to amending the Town's land use regulations. The Town Board has reviewed the NYSERDA model law and other sources and has determined that the public interest is best promoted and protected by prohibiting BESSs in the Town of Salem.

The Town Board is aware of numerous fires and smoke related to battery energy storage systems. The Town of Salem is primarily a rural residential and farming community. BESSs can present serious hazards like thermal runaway, toxic gas emissions, and fires." Research indicates that the common approach to fighting fires at BESSs locations is to let the fire burn out, rather than actively fight the fire, which would require the local volunteer fire departments to maintain and control the area around the fire for an extended period of time, in some cases, maintaining the area for more than a week. The Town Board also has concerns that a fire at a BESSs facility could release harmful toxins into the air, affecting air quality at neighboring properties.

Such prohibition will protect residential areas and farms, enhance public safety by protecting the environment including but not limited to, air quality, groundwater supplies and water bodies.

The Town Board determines that this local law is consistent with and does not conflict with the Town Comprehensive Plan.

Section 2. Authority:

This local law is adopted by the Town Board of Town of Salem (hereinafter referred to as the "Town Board") pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Articles 2 and 3 of the Municipal Home Rule Law which authorize the Town to adopt local laws that promote health, safety and general welfare of the community.

Section 3. Definitions:

As used in this Chapter, the following terms shall have the meaning indicated.

BATTERY (IES): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

COMMERCIAL BATTERY ENERGY STORAGE SYSTEM: One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, having an aggregate energy capacity greater than 600kWH or are comprised of more than one storage battery technology in a room or enclosed area.

Section 4. Prohibition:

In accordance with the findings set forth in this local law and the authority vested in the Town Board, Commercial Battery Energy Storage Facilities are hereby prohibited within the Town of Salem.

Section 5. 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 Ten Thousand and 00/100Dollars (\$10,000.00) 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 Twenty Thousand 00/100 Dollars (\$20,000.00) 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 determined 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 6. Severability:

If a court 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 7. Title:

This local law shall be referred to as "Local Law Prohibiting Commercial Battery Energy Storage Systems within the Town of Salem."

Section 8. Effective Date:

This local law shall take effect immediately, upon filing with the Secretary, as provided under NYS law.