

TOWN OF WALTON

A LOCAL LAW ESTABLISHING A ONE (1) YEAR MORATORIUM ON “BATTERY ENERGY STORAGE SYSTEMS” IN THE TOWN OF WALTON

LOCAL LAW NO. 2 of 2026

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

Section 1: Purpose, Intent and Findings.

The purpose of this local law is to protect the public health, safety and quality of life of the residents of the Town of Walton by temporarily suspending the processing of land use approvals as provided herein and suspend the rights of landowners and their designees to obtain development approvals as identified below for a period of one year from the date of the adoption of this local law while the Town Board studies, analyzes and determines potential appropriate revisions and amendments to the Town Code regarding the propriety of Battery Energy Storage Systems (“BESS”). The Town intends to study the safety and security of these energy storage systems, including thermal runaway, off gassing and toxicity, stranded energy, ways to prevent fires, prevent by-product contamination, and ensure emergency responders have the necessary training and information to prepare and deploy resources in the event of a fire.

The Town of Walton recognizes that Battery Energy Storage Systems (“BESS”) are a key component to the viability and promotion of renewable energy sources. However, since the technology of these systems is still in its infancy, there is a significant amount of public concern about the potentially volatile nature of lithium-ion batteries, which stems from fires at BESS facilities in the State of New York beginning in May 2023.

Therefore, the Town Board, Planning Board, and Zoning Board of Appeals need additional information and assurances about the safety of these types of systems, including but not limited to best practices for fire suppression and emergency response, ensuring the technology and availability of equipment necessary for local fire departments should a fire occur, precautions to take related to gas emissions and deterring any necessary fire suppression chemicals from impacting groundwater, and the adequacy of location and other standards for siting of BESS.

Accordingly, the Town Board hereby enacts a temporary, limited moratorium on BESS whereby no application shall be considered, nor approvals granted, by the Planning Board, Zoning Board of Appeals, or the Code Enforcement officials of the Town with respect to any applications for new Battery Energy Storage Systems.

The Town Board finds that the necessary, temporary action proposed by this local law consisting of deliberative information collection as part of the continuing administration and management of the Town constitutes a Type II action under the New York State Environmental Quality Review Act and therefore requires no further environmental review.

Section 2: Definitions.

BATTERY ENERGY STORAGE SYSTEM:

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.

Section 3: Moratorium.

Pursuant to the statutory authority vested in the Town to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town of Walton hereby declares a one (1) year moratorium on the review and approval of new as of yet unfiled and any and all pending applications for any and all land use approvals, including site plan approvals, subdivision plats, building permits, special use permits and variances (hereinafter “Land Use Approvals”) for all Battery Energy Storage Systems within the Town. During the period of this local law:

1. The Planning Board shall not accept any application, grant any approval to, or continue the review of a subdivision plat, site plan, special use permit or other permit that includes the permitting, construction and/or development of a Battery Energy Storage System within the Town.
2. The Zoning Board of Appeals shall not accept any application or grant any approval for a variance or other permit that would have as a result the permitting, construction and development of a Battery Energy Storage System within the Town.
3. The Code Enforcement Office shall not accept any building permit application or grant any Certificate of Occupancy or Certificate of Compliance for a Battery Energy Storage System within the Town.

4. Projects currently under construction and projects that have received final approvals are not subject to this moratorium.

Section 4: Penalties. Any individual, partnership, firm or corporation that shall establish, construct, reconstruct, relocate, enlarge or modify any site to be used for implementation and/or use of Battery Energy Storage Systems in the Town of Walton in violation of the provisions of this Local Law, shall be subject to the following:

- A. A fine not to exceed one thousand dollars (\$1,000.00). Each day a violation continues shall be deemed as a new and separate violation; and
- B. A civil action inclusive of injunctive relief in favor of the Town to cease any and all actions which conflict with this Local Law and, if necessary, to remove any construction(s), improvement(s), or related items or byproducts which may have taken place in violation of this Local Law.

Section 5: Enforcement. This Local Law shall be enforced by the Town of Walton Code Enforcement Office or any other zoning enforcement individual(s) as designated by the Town Board. It shall be the duty of the enforcement individual(s) to advise the Town Board of all matters pertaining to the enforcement of this Local Law.

Section 6: Term.

The moratorium imposed by this Local Law shall be effective for one (1) year from the effective date of this Local Law. This Moratorium may be extended for an additional period by resolution of the Town Board.

Section 7: Authority.

This moratorium is adopted pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments, § 10, Subdivisions 1 and 7, §§ 261 through 263 of the Town Law, and § 10 of the Municipal Home Rule Law of the State of New York. In particular, this chapter shall supersede those any provisions of the Town Code and New York State Law which require the Town Board, Planning Board, and/or Zoning Board of Appeals to accept, process, and/or approve applications or issue permits for the development of Battery Energy Storage Systems within specified statutory time periods.

Section 8: Severability.

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the

controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Walton hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 9: 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 Municipal Home Rule Law.