

**Local Law Prohibiting Commercial Battery
Energy Storage Systems within the Town of Jackson**

Section 1. Legislative 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 Jackson.

Section 2. Authority:

This local law is adopted by the Town Board of Town of Jackson (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. 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 4. Title:

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

Section 5. Effective Date:

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

Section 6. 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: A rechargeable energy storage system consisting of electrochemical storage batteries, battery charges, controls,

power conditioning systems and associated electrical equipment with an aggregate energy capacity greater than 600kWh, designed mainly but not exclusively to store and distribute energy produced by a Commercial Solar or Wind Energy Facility.

Section 7. Commercial Battery Energy Storage Systems, a Prohibited Use:

Section 7(a). With respect to Commercial Battery Energy Storage Systems, as defined in Section 6 of this Local Law, the Town Board makes the following findings:

1. Commercial Battery Energy Storage System (CBESS) failures have the potential to undermine public health, safety and welfare, will potentially be situated in locations without access to water supply for fire suppression, and will overtax the Town's first responders. CBESS failures and ensuing thermal runaway and fire can produce a range of toxic gasses and particulates, including several highly toxic compounds including benzene, toluene, styrene, biphenyl, hydrogen fluoride and many others. That the probability of occurrence of such failures is not small as was demonstrated during the summer of 2023, during which commercial and/or utility battery energy storage systems in Jefferson, Orange and Suffolk Counties burned. Further, there is widespread uncertainty about the potential environmental effects of toxic emissions and runoff that are likely to be released due to fires at CBESS facilities which could contaminate agricultural lands and water bodies located within the Town and surrounding areas.
2. The Town Board, therefore, finds that allowing CBESS in the Town would be inconsistent with the following goals and objectives of the Town as set forth in the Town of Jackson Site Plan Review Law.
 - o Allowing CBESS as a permitted use anywhere in the Town is contrary to the overall goal set forth in the Site Plan Review Law, which is to "enhance the character and to promote the health, safety, and general welfare of the Town"; to "ensure the optimum overall conservation, protection, preservation, development, and use of the natural and other resources of the Town" and to "protect or improve upon existing levels of water, air and soil purity", for the following reasons: failure of CBESS presents serious safety risks to adjacent land uses and to the natural environment, and CBESS, as industrial energy storage facilities, are inconsistent with the Town's rural character.
 - o Allowing CBESS as a permitted use within the Town is contrary to the stated goals of the Town as set forth in the Site Plan Review Law which is to maintain a clean, wholesome and attractive environment for the health and safety of the inhabitants of the Town by preservation of prime farmland, water resources and environmentally sensitive and scenic areas, as CBESS facilities represent commercial and industrial development that would consume open space in a way

that is detrimental to the Town' s rural character and further present risks that are detrimental to the natural environment.

Section 7(b). In accordance with the findings set forth in this Section and the authority vested in the Town Board, Commercial Battery Energy Storage Facilities are hereby prohibited within the Town of Jackson.

Section 8. 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 9. 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.