New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

# Local Law Filing

**(Use this form to file a local law with the Secretary of State.)**

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
*(Select one:)*

FILED
STATE RECORDS
JUL 21 2021
DEPARTMENT OF STATE

**of** Warren

**Local Law No.** 4 **of the year 20**21

**A local law** Battery Energy Storage Law
*(Insert Title)*

**Be it enacted by the** Town Board **of the**
*(Name of Legislative Body)*

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
*(Select one:)*

**of** Warren **as follows:**

**(If additional space is needed, attach pages the same size as this sheet, and number each.)**

# INDEX

## LOCAL LAW #4 OF 2021

# Battery Energy Storage Local Law

## §1. Title

This Local Law may be cited as the "Battery Energy Storage Local Law" of the Town of Warren, New York.

## §2. Purpose

This Battery Energy Storage Local Law is adopted to advance and protect the public health, safety and welfare of Town of Warren by creating regulations for the installation and use of battery energy storage systems, compatible with the Town's Comprehensive Plan, with the following objectives:

A. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
B. To protect the health, welfare, safety, and quality of life for the general public;
C. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
D. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources; and
E. To create synergy between battery energy storage system development and maintenance of the rural character, preservation of historic properties and scenic views including avoidance of light pollution.

## §3. Authority

The Town Board of the Town of Warren enacts this Battery Energy Storage Local Law under the authority granted by:

A. Article IX of the New York State Constitution, § 2 (c)(6) and (10)
B. New York Statute of Local Governments, § 10 (1) and (7)
C. New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and § 10(1)(a)(6), (11), (12), and (14), § 10(2)(d)(3)
D. New York Town Law §130(1) (Building Code), (3) (Electrical Code), (5) (Fire Prevention), (7) (Use of Streets and Highways), (7-a) (Location of Driveways), (11)(Peace, Good Order and Safety), (15) (Promotion of Public Welfare), (15-a)(Excavated Lands), (16) (Unsafe Buildings), (19) (Trespass), and (25) (Building Lines).
E. New York Town Law §64(17-a) (Protection of Aesthetic Interests), (23) (General Powers)
F. New York Real Property Tax Law § 487
G. State Environmental Quality Review 6 CRR-NY § 617.14 (e)

## §4. Findings

The Town of Warren finds and declares:

A. Electrical power is the time rate of generation of energy. An electrical generator produces power which must be consumed when generated.

B. The electrical power grid operates to interconnect electrical generators to consumers on an instantaneous basis. If electrical generation and consumption are not well matched at any given time, the electrical grid may become unstable, leading to under or over voltage conditions and other problems. To avoid instability, the New York Independent System Operator (NYISO) dispatches electrical generators to provide power to match the rate of power consumption. This is typically managed in five-minute increments.

C. The economic value of electrical power varies with time, with the highest economic value at periods of peak demand and the lowest economic value at periods of lowest demand. Thus, Battery Energy Storage Systems provide a means of practicing arbitrage in the electrical power market.

D. Renewable energy sources such as wind and solar power are highly variable and generally considered "non-dispatchable" and "must run" generators due to their economic model.

    1. Electrical power generated by wind turbines is highly variable as wind speed is itself highly variable. Mathematically, wind energy varies as a cubic function of wind speed. Thus, doubling the wind speed results in eight times the potential power generation. Minor variations in wind speed result in large variations of power generation. Even at high wind speeds where a wind turbine will have its highest power output (its nameplate rating), it may have to be turned off to avoid damage should the wind speed exceed a design limit. Thus, the power generation could potentially go from its nameplate rating of full power to no power at all within a few minutes. Even when operating within its design limits, wind power in inland locations of New York State generally have their highest power generation at night when the demand for electrical power is at its lowest. The variability of wind power cannot be mitigated with improvements in wind turbine design or efficiency because it is caused by the variable nature of the wind resource itself.
    2. Electrical power generated by solar panels is highly variable as the exposure to the direct rays of the sun varies with changes in cloud cover. Thus, it is not uncommon for a solar panel to have electrical output that changes by an order of magnitude within seconds. While solar power is better correlated to peak demand than wind power, we note that in California with its abundant solar resource, increases in solar power have result in a shifting of the demand peak to later in the day when the sun is setting. The variability of solar power cannot be mitigated with improvements in solar panel design or efficiency because it is

caused by the variable nature of the solar resource itself.

E. Because Battery Energy Storage Systems are often paired with renewable energy sources to mitigate the volatility and non-dispatchable nature of such generators, they are often termed "Solar Battery Systems", though the power used can be from any source.

F. Battery Energy Storage Systems do not generate power, but rather store power that is not needed at one instant to provide power when it is needed at another instant. In this way, if properly managed, they can contribute to the stability of the electrical grid. Improper management of battery storage systems can lead to grid instability by exacerbating any mismatch between generation and consumption. Thus, it is important that evidence be provided that the local electrical grid can properly handle the presence of battery storage systems prior to permitting grid interconnection.

G. Batteries convert electrical power to chemical energy and then back again. In the chemical energy phase, the potential energy present is highly concentrated and can lead to catastrophic destruction in the case of a system malfunction. Catastrophic destruction may take the form of hazardous conditions such as fire, explosion and/or the release of hazardous substances into the surrounding environment.

    1. Thus, it is important that local first responders be properly trained for the unique hazards that Battery Energy Storage Systems may present and be trained as to the appropriate responses to various emergent conditions.
    2. It is also important that the potential hazards of a proposed battery energy storage system be understood to inform the permit approval decision making process.
    3. It is important for first responders to be able to safely operate emergency systems such as fire suppression systems, ventilations systems, etc. from a safe distance, such as outside the BESS perimeter fence.
    4. Walk-in or container type systems should be equipped with pressure relief ventilator systems to dissipate pressure within the container in a safer direction, for example, upwards.
    5. Battery Energy Storage Management Systems should have a separate power source such that if the operator or first responders shut down the BESS as part of an emergency response, that the battery energy storage management system is able to continue operation.
    6. A malfunction or catastrophic failure of an BESS could result in the release of toxic gases and so a well-considered emergency response plan should include identifying the types of appropriate personal protective equipment to be used in advance, and making sure that such equipment is available.

H. The process of converting electrical power to chemical energy and back again involves losses in the form of heat. Battery Energy Storage Systems can produce large amounts of heat, and thus require cooling systems which may be significant sources of noise, which, if not properly and adequately regulated, can negatively impact adjoining properties, particularly in areas of low background noise levels. Thus, it is important

to consider these factors when making siting decisions.

I. It is noted that The New York State Department of Environmental Conservation document, Assessing and Mitigating Noise Impacts (2001) teaches that sound levels that are 0-5dB above ambient are "unnoticed to tolerable" whereas noise increases over 5dB are considered "intrusive". This document further states: "Appropriate receptor locations may be either at the property line of the parcel on which the facility is located or at the location of use or inhabitance on adjacent property". And "The most conservative approach uses the property line".

J. Regulation of the siting and installation of Battery Energy Storage Systems is necessary for protecting the health, safety, and welfare of neighboring property owners and the general public.

K. The New York State Energy Research and Development Authority has published a model Battery Energy Storage Permit Application form which should be adapted by the Town Planning Board for use by applicants for a Battery Energy Storage Permit to the extent that it is appropriate and compatible with this local law.

**§5. Definitions**

**AGRICULTURAL OR FARM OPERATIONS:** Agricultural or Farm Operations are the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation and "timber processing". Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

**AMBIENT SOUND:** Ambient sound encompasses all sound present in a given environment, being usually a composite of sounds from many sources near and far. It includes intermittent Noise events, such as, from aircraft flying over, dogs barking, wind gusts, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road. The ambient also includes insect and other nearby sounds from birds and animals or people. The near-by and transient events are part of the Ambient Sound environment but are not to be considered part of the long-term Background Sound.

**ANSI:** American National Standards Institute

**BACKGROUND SOUND:** Background Sound is the "residual sound" heard during lulls in the Ambient Sound environment as defined by ANSI Standard 12.9, Part 2, and represents the quietest 10% of the time, during any given hour.

**BATTERY:** A single Cell or a group of Cells connected 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.

**BATTERY ENERGY STORAGE MANAGEMENT SYSTEM:** An electronic system that protects storage batteries from operating outside their safe operating parameters and generates an alarm and trouble signal for off normal conditions.

**BESS:** Battery Energy Storage System

**BATTERY ENERGY STORAGE SYSTEM:** A Battery, capable of storing energy to supply electrical energy at a future time. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh.
B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh.

**CELL:** The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

**COMMISSIONING:** A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

**DEDICATED-USE BUILDING:** A building that is built for the primary intention of housing battery energy storage system equipment and is classified as Group F-1 occupancy as defined in the International Building Code. It is constructed in accordance with the Uniform Code, and it complies with the following:

A. The building's only use is for battery energy storage, energy generation, and other electrical grid-related operations.
B. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
C. No other occupancy types are permitted in the building.
D. Administrative and support personnel are permitted in incidental-use areas within the buildings that do not contain battery energy storage system, provided the following:
    1. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
    2. A means of egress is provided from the incidental-use areas to a public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy systems or other energy system equipment.

**ENERGY CODE:** The New York State Energy Conservation Construction Code adopted

pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

**FIRE CODE:** The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

**FIRE OFFICIAL:** The Fire Chief of the Fire Department having primary jurisdiction, or their designee who is responsible for the review of the Fire Safety Compliance and Emergency Operations Plans.

**NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL):** A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

**NEC:** National Electric Code.

**NFPA:** National Fire Protection Association.

**NON-DEDICATED-USE BUILDING:** All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements, including all other occupancy types such as, but not limited to, commercial, industrial, offices, and multifamily housing.

**NON-PARTICIPATING PROPERTY:** Any property that is not a Participating property.

**OCCUPIED COMMUNITY BUILDING:** Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

**ONE-TO-TWO-FAMILY DWELLING:** A building that contains not more than two dwelling units with independent cooking and bathroom facilities.

**PARTICIPATING PROPERTY:** A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

**SEQRA:** The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

**SPECIAL FLOOD HAZARD AREA:** The land area covered by the floodwaters of the base

flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

**UNIFORM CODE:** the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

**§6. Applicability**

A. The requirements of this law shall apply to all Battery Energy Storage systems permitted, installed, or modified in The Town of Warren after the effective date of this Local Law, excluding general maintenance and repair.
B. Battery Energy Storage Systems constructed or installed prior to the effective date of this local law shall not be required to meet the requirements of this Local Law.
C. Modifications to, retrofits or replacements of an existing Battery Energy Storage system that increase the total Battery Energy Storage System design capacity, discharge duration or power rating shall be subject to this Local Law.

**§7. Permits Required**

A. No Battery Energy Storage System shall be constructed, reconstructed, modified, or operated within the Town of Warren except pursuant to and in compliance with a "Battery Energy Storage System Permit" issued pursuant to this Local Law.
B. Unless a specific exemption applies, a "Battery Energy Storage System Permit" shall be required for the construction, reconstruction, modification or operation of the following:
    1. Tier 1 Battery Energy Storage Systems
    2. Tier 2 Battery Energy Storage Systems
C. All Battery Energy Storage Systems, all dedicated use buildings, and all other buildings or structures that (1) contain or are otherwise associated with a Battery Energy Storage System and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code and the Town Law.
D. Exemptions. No permit or other approval shall be required under this Local Law for the following:
    1. Tier 1 Battery Energy Storage Systems which are portable and not connected to the electrical wiring of a building or to the electrical grid, unless such connection is by its nature temporary and incidental to its use.
    2. A Battery Energy Storage System which is utilized solely for AGRICULTURAL OR FARM OPERATIONS in an agricultural district certified pursuant to Article

25-AA of the Agricultural and Markets Law and not integrated to the electrical grid.

3. The repair of a validly permitted Battery Energy Storage System that does not increase the original capacity of the system.
4. Batteries of vehicles of all types for use on land, water or air, which have the function of powering said vehicle and/or its accessories, but not for providing power to the electrical grid.
5. Consumer products as that term is defined by the Consumer Product Safety Act.

**§8. Tier 1 Battery Energy Storage Systems**

A. Permitted Areas: Tier 1 Battery Energy Storage Systems may be installed on any parcel which is of sufficient size to meet the requirements of this Section.

B. Standards:
   1. Tier 1 Battery Energy Systems shall be installed in accordance with the Uniform Code.
   2. Shall meet the following requirements:
      a. Shall be installed at least four (4) feet above the 100-year floodplain in Special Flood Hazard Areas.
      b. Maximum Height shall be twenty (20) feet.

C. Application:
   1. A completed Battery Energy Storage System Permit application form.
   2. Emergency Operations Plan for local Fire Officials.

D. Approval
   1. The Planning Board is empowered to review and approve or reject permits for Tier 1 systems.
   2. Approval of the Emergency Operations Plan by the Fire Official is required.

**§9. Tier 2 Battery Energy Storage Systems**

A. Tier 2 Battery Energy Storage Systems may be permitted through the issuance of a Battery Energy Storage System Permit on any parcel or groupings of parcels which either singly or in combination is of sufficient size to meet the requirements of this Section, subject to the uniform code and Application requirements set forth in this section.

B. Standards.
   1. Setbacks. Setback for Tier 2 Battery Energy Storage Systems shall be at least eighty-three (83) feet from the center of the approved and accepted Town, County, or State Highway. If said lot is a corner lot, said requirements apply to each highway. Setback shall be at least one hundred (100) feet from any lot line of a parcel not owned or leased by the Applicant or utility company, or greater if necessary, to meet sound requirements.
   2. Height. Maximum Height for Tier 2 Battery Energy Storage Systems shall be

twenty (20) feet, unless enclosed in a Dedicated Use Building in which case the maximum height shall be thirty- five (35) feet.

3. Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a 7 foot high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
4. Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust purposes.
5. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
6. Signage. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24- hour emergency contact information, including reach-back phone number. As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
7. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
8. Vegetation and tree-cutting. Areas within 10 feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
9. Noise. Except during short-term events including utility outages and maintenance activities, a Tier 2 Battery Energy Storage System shall be designed, installed, and operated so that the Sound Pressure Level (Leq) generated by it shall not exceed 45 dBA as measured at the nearest off-Site Residence existing at the time of approval (including structure under construction at said time), nor more than 5 dBA greater than either the nighttime or daytime pre-application Background Sound level measured in leaf-off conditions for a period of no less than 24 hours. Measurement of Background Sound may also be performed with the system turned off. Applicants may submit equipment and component manufacturers noise ratings to demonstrate compliance. The

applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

C. Application. Site plan application. For a Tier 2 Battery Energy Storage System, site plan approval shall be required. Any site plan application shall include the following information, except that the submittals described in 7(a),7(b) and 7(c), while required prior to issuance of a Battery Energy Storage System Permit, may be submitted in draft form as part of the site plan application.:

1. Property lines and physical features, including roads, for the project site.
2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
3. An electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
4. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
5. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
6. Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
7. Prior to the building permit being issued, the applicant shall submit for review and approval the following:
    a. Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer or (NYS) Registered Architect after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Codes Enforcement Officer prior to final inspection and approval and maintained at an approved on-site location. Energy storage system commissioning shall not be required for lead-acid and nickel-cadmium battery systems at facilities under the exclusive control of communications utilities that

comply with NFPA 76 and operate at less than 50 VAC and 60 VDC.

b. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
c. System and Property Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.
d. Emergency Operations Plan.

8. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
9. Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer or NYS Registered Architect.
10. No Segmentation. The Applicant shall disclose the full scope of the planned size of the Tier 2 Battery Energy Storage System and shall not segment the application for purposes of reducing the apparent significance of proposed plans. Where the Planning Board has reason to believe that the ultimate scope of the project might exceed that which is actually proposed by the Applicant at one time, it shall conduct its review and base its findings on the larger potential scope.
11. Escrow agreement. The Town may require the Applicant to fund an escrow agreement to cover the amount by which the Town's cost to review the applicant's application(s) exceeds the application fees paid by the applicant.

D. SEQR. All systems shall be classified pursuant to New York State SEQR regulations.

E. Decommissioning.

1. Decommissioning Plan. The applicant shall submit a decommissioning plan, developed in accordance with the Uniform Code, containing a narrative description of the activities to be accomplished for removing the energy storage system from service, and from the facility in which it is located. The decommissioning plan shall also include: (i) the anticipated life of the battery energy storage system; (ii) the estimated decommissioning costs; (iii) how said estimate was determined; (iv) the method of ensuring that funds will be available for decommissioning and restoration; (v) the method that the decommissioning cost will be kept current; (vi) the manner in which the battery energy storage system will be decommissioned, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed and the Site restored; and (vii) a listing of any contingencies

for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

2. Decommissioning Fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town of Warren in a form approved by the Town Board for the removal of the battery energy storage system, in an amount to be determined by the Town Board for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed financial institution. All costs of the financial security shall be borne by the applicant. The Town Board shall approve the Decommissioning Fund prior to a building permit being issued.

F. Review of Applications. Applications for the installation of Tier 2 Battery Energy Storage System shall be:

1. reviewed by the Planning Board for completeness. A permit application shall be complete when it addresses all matters listed in this Local Law including, but not necessarily limited to, (i) compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and (ii) matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Ownership Changes, Safety, Permit Time Frame and Abandonment. Applicants shall be advised within 10 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
2. subject to a public hearing to hear all comments for and against the application. The Planning Board shall have a notice printed in a newspaper of general circulation in the Town at least 7 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 500 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing.
3. referred to the County Planning Department pursuant to General Municipal Law § 239-m if required.
4. upon closing of the public hearing, the Planning Board shall act on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and Applicant.

G. Ownership Changes. (i) If the owner of the battery energy storage system changes or the owner of the property changes, the Battery Energy Storage System Permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. (ii) A new owner or operator of the battery energy storage system shall notify the Codes Enforcement Officer of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification in

writing. (iii) The Battery Energy Storage System Permit is void if a new owner or operator fails to provide written notification to the Codes Enforcement Officer in the required timeframe. (iv) Reinstatement of a permit which has been voided for less than six months under this subsection may be reinstated upon application to the Planning Board, the payment of an administrative fee not to exceed the original application fee, and after a public hearing.

**§10. Safety**

A. System Certification. Battery energy storage systems and Equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 or CAN 9540 (Standard for battery energy storage systems and Equipment) with subcomponents meeting each of the following standards that are applicable based on the storage type (electrochemical, thermal, mechanical):

1. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
2. UL 1642 (Standard for Lithium Batteries),
3. UL 1741 or UL 62109 (inverters and power converters),
4. Certified under the applicable electrical, building, and fire prevention codes as required.
5. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations and safety standards may be used to meet system certification requirements.

Lead-acid and nickel-cadmium battery systems installed in facilities under the exclusive control of communications utilities and operating at less than 50 VAC and 60 VDC in accordance with NFPA 76 are not required to be listed.

B. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 2 Battery Energy Storage System is located in an ambulance district, the local ambulance corps.

C. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

**§11. Permit Time Frame and Abandonment**

A. The Battery Energy Storage System Permit for a battery energy storage system shall be valid for a period of 24 months, provided that a building permit is issued for construction and construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as

required by the Planning Board, within 24 months after approval, the Applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 36 months, the approvals shall expire.

B. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the available bond and/or security for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

**§12. Fees**

Non-refundable application fees shall be as established by resolution of the Town Board.

**§13. Certificate of Compliance**

No Battery Energy Storage System erected subject to the Uniform Code and this Local Law shall be operated until a Certificate of Compliance has been issued.

**§14. Enforcement, Penalties and Remedies for Violations**

A. Staff. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this Local Law.

B. Any person owning, controlling or managing any building, structure or land who shall construct or operate a Battery Energy Storage System in violation of this Local Law or in noncompliance with the terms and conditions of any permit issued pursuant to this Local Law, or any order of the Code Enforcement Officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than $350 or to imprisonment for a period of not more than thirty days. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amount of $350 for each violation and each week said violation continues shall be deemed a separate violation.

C. In case of any violation or threatened violation of any of the provisions of this Local Law, including the terms and conditions imposed by any permit issued pursuant to this Local Law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

**§15. Severability**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**§ 16. Effective Date**

This Local Law shall be effective upon its passage. It shall be filed with the Secretary of State in accordance with the Municipal Home Rule Law.

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2021 of the ~~(County)(City)~~(Town)~~(Village)~~ of Warren was duly passed by the Town Board on July 12 2021, in accordance with the applicable
*(Name of Legislative Body)*
provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**

I hereby certify that the local law annexed hereto, designated as local law No. of 20 1 of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
*(Name of Legislative Body)*
(repassed after disapproval) by the _____ and was deemed duly adopted
*(Elective Chief Executive Officer*)*
on _____ 20[ ][ ], in accordance w ith the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
*(Name of Legislative Body)*
(repassed after disapproval) by the _____ on _____ 20____.
*(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
*(Name of Legislative Body)*
(repassed after disapproval) by the _____ on _____ 20____. Such local
*(Elective Chief Executive Officer*)*
law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 , became operative.

**6. (County local law concerning adoption of Charter.)**
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

*(Seal)*

Date: July 12, 2021

Anne K Walkowicz