

TOWN OF COLUMBUS

LOCAL LAW NO. 1-2025

A LOCAL LAW ENTITLED “BATTERY ENERGY STORAGE SYSTEMS”

Be it enacted by the Town Board of the Town of Columbus as follows:

Section 1. Authority

This Battery Energy Storage System Law is adopted pursuant to Article IX of the New York State Constitution § 2 (c) (10), New York Statute of Local Governments, § 10 (1) and (7); §10 and 20 of the Municipal Home Rule Law of the State of New York; and the Town Law of the State of New York, which authorize the Town of Columbus to adopt development provisions that advance and protect the health, safety and welfare of the community.

Section 2. Purpose

This Battery Energy Storage System Law is adopted to advance and protect the public health, safety, welfare, and quality of life of the Town of Columbus by creating regulations for the installation and use of battery energy storage systems, 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 ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
- C. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources;
- D. To assure a balance between development of Battery Energy Storage Systems and their impacts and the effects of such development activities upon the residents and the environment of the Town, such as by and through the mitigation of potential negative impacts resulting from development activities in certain environmentally sensitive areas, as well as through identifying and minimizing certain adverse effects of unregulated development upon drainage, traffic, public utilities, surface and ground water quality, view sheds, wildlife habitat and other natural and public resources, and the need for provision of a community service; and
- E. To help mitigate and protect against any potential fire safety hazards and to provide a process whereby the fire safety of Battery Energy Storage Systems can be reviewed and addressed through an appropriate permitting process.

- F. The Town has determined that Battery Energy Storage Systems, while allowed, need to be evaluated relative to their suitability to and compatibility with natural site conditions and surrounding land uses. Thus, the intent of this Local Law is to promote the conservation, preservation, and development of the Town, while also helping to prevent and mitigate certain unwanted and deleterious impacts that may arise from the unregulated development of Battery Energy Storage Systems. It is not the intent of this Local Law to allow or disallow any legal land uses, but instead to identify those which may have impacts that can or should be regulated to achieve the goals of this Local Law.

Section 3. Definitions

As used in this Article, the following terms shall have the meanings indicated:

ANSI: American National Standards Institute

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.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

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. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy System as follows:

(1) Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kwh and, if in a room or enclosed area, consist of only a single energy storage system technology.

(2) Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kwh or are comprised of more than one storage battery technology in a room or enclosed area.

BATTERY ENERGY STORAGE SYSTEM PERMIT: A battery energy storage system permit, as it may be updated from time to time, which establishes the minimum submittal requirements for electrical and structural plan review that are necessary when permitting battery energy storage systems.

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, is classified as Group F-1 occupancy as defined in the International Building Code, and complies with the following:

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

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.

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

NON-PARTICIPATING RESIDENCE: Any residence located on non-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.

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.

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.

Section 4. Applicability

- A. The requirements of this Local Law shall apply to all battery energy storage systems permitted, installed, or modified in the Town of Columbus after the effective date of this Local Law, excluding general maintenance and repair.
- B. Battery energy storage systems that have a valid building permit and have been 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 designed discharge duration or power rating shall be subject to this Local Law.
- D. Battery Energy Storage Systems are permitted only upon the issuance of permits as set forth herein.
- E. Battery Energy Storage Systems shall not be located in the following areas: flood plains, historic sites, airports, conservation easements, nature trails, parkland, and wetlands as identified by Chenango County Planning Department mapping services, the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers.

Section 5. General Requirements

- A. A building permit and an electrical permit shall be required for installation of all Battery Energy Storage Systems.
- B. Battery Energy Storage Systems shall be subject to the issuance of permits and approvals, as set forth in Sections 7 and 8 below, which shall include review pursuant to the State Environmental Quality Review Act (SEQRA), as applicable.

- C. All Battery Energy Storage Systems, all Dedicated Use Buildings, and all other building or structures that contain or are otherwise associated with a Battery Energy Storage System and are subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, 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 Town Code.

Section 6. Fees and Deposits

- A. The fees for a Site Plan Review and special permit for a Battery Energy Storage System shall be set from time to time by a Town Board Resolution.
- B. The Battery Energy Storage Systems Applicant for a Tier 2 Battery Energy Storage System shall deliver with its application an amount equal to one percent (1%) of the estimated cost of the project, provided that the Planning Board determines that such amount is reasonable and necessary for the review of the application. This sum shall be held by the Town in a non-interest-bearing account and these funds shall be available to the Town to pay consultants engaged by the Town to assist in any review of the application. Following grant or denial of the application, the Town shall return to the Applicant any excess remaining in escrow. If the escrow account has been depleted prior to grant or denial of the application, the Applicant shall deposit such funds as are then reasonable and necessary for the Town to pay any outstanding fees.

Section 7. Permitting Requirements for Tier 1 Battery Energy Storage

- A. Tier 1 Battery Energy Storage Systems shall be permitted subject to the Uniform Code and the building permit and shall be exempt from site plan review and special permit requirements.
- B. Tier 1 Battery Energy Storage Systems are subject to the following requirements:
 - (1) The height of the Tier 1 Battery Energy Storage Systems and any mounts shall not exceed 15 feet.
 - (2) The total surface area of the Tier 1 Battery Energy Storage Systems on the lot shall not exceed 5% of lot coverage.
 - (3) The Tier 1 Battery Energy Storage Systems shall be allowed only as an accessory use and shall not be the primary use of the property. There shall be no more than one Tier 1 Battery Energy Storage System per lot.
 - (4) The Tier 1 Battery Energy Storage System shall be located only in a side or rear yard.
 - (5) The Tier 1 Battery Energy Storage Systems shall be screened from adjacent residences through the use of architectural features, earth berms, landscaping, vegetation or other screening which will harmonize with the character of the property and surrounding area.
 - (6) All applicants for a Tier 1 Battery Energy Storage System shall provide the Code Enforcement Officer with a 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.

- (7) All applicants for a Tier 1 Battery Energy Storage System shall be required to have on-site fire suppression equipment as dictated by the New York State Fire Code.
- (8) Right to inspect. If the Code Enforcement Officer receives a complaint or requests access to the Battery Energy Storage System, the property owner shall allow the Code Enforcement Officer, along with any electrical, fire or other professional inspector, access to the property and the system. If it is determined after inspection that a hazard has been identified, the battery energy storage system shall be removed, replaced or remedied within 90 days of notice from the Code Enforcement Officer.
- (9) Abandonment and decommissioning. Any Tier 1 Battery Energy Storage System which has been determined to be nonfunctioning or abandoned shall be decommissioned and removed. The owner of the system and owner of the land upon which the system is located shall be jointly and severally responsible to physically remove and properly dispose of all components of the system within three months of the determination of the system to be nonfunctioning or abandoned.

Section 8. Permitting Requirements for Tier 2 Battery Energy Storage Systems

Tier 2 Battery Energy Storage Systems shall be subject to the issuance of a special permit by the Planning Board in accordance with this Local Law and site plan review by the Planning Board in accordance with the Town of Columbus Site Plan Review Law (Local Law 1-2014) as amended.

There shall be a pre-application meeting with the Planning Board for all Tier 2 Battery Energy Storage System applicants. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit, if required. If any Town consultants are required to prepare for and attend the pre-application meeting, this cost will be borne by the Battery Energy Storage System applicant.

- A. Applications for the installation of Tier a 2 Battery Energy Storage System shall be reviewed by the Planning Board. An application shall be complete when it addresses all matters listed in this Local Law including but not limited to:
 - (1) Compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code; and
 - (2) The special permit application requirements, as set forth herein.
- B. The special permit application for a Tier 2 Battery Energy Storage System shall include the following information:
 - (1) A three-line 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.
 - (2) 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 a building permit.
- (3) 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.
 - (4) 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.
 - (5) Signage plan, screening and buffering plan, and lighting plan.
 - (6) Visual Impact Assessment. The Applicant shall provide narrative, images, renderings, maps, and other materials to assist the Planning Board in determining potential visual impacts associated with the Battery Energy Storage System. The visual impact assessment materials shall generally conform to NYSDEC Program Policy for Assessing and Mitigating Visual Impacts, in the discretion of the Planning Board.
 - (7) 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. Where commissioning is required by the Uniform Code, Battery Energy Storage System commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer 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 Building Inspector prior to final inspection and approval and maintained at an approved on-site location.
 - (8) Decommissioning Plan. Such Decommissioning Plan shall be in accordance with the requirements of Section 8(L) of this Local Law.
 - (9) 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.
 - (10) Operation and Maintenance Manual. Such plan shall describe continuing Battery Energy Storage System maintenance and property upkeep, including any required vegetative screening and vegetative buffering, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code.
 - (11) Erosion and sediment control and stormwater management plans.
 - (12) Prior to the issuance of final approval, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer
 - (13) Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the Planning Board, system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
 - a. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock,

and personal injuries, and for safe start-up following cessation of emergency conditions.

- b. Procedures for inspection and testing of associated alarms, interlocks, and controls.
 - c. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
 - d. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
 - e. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
 - f. Procedures for dealing with Battery Energy Storage System equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
 - g. Other procedures as determined necessary by the Town Planning Board to provide for the safety of occupants, neighboring properties, and emergency responders.
 - h. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
- (14) The application shall include a list of any hazardous materials included in the infrastructure of the Battery Energy Storage System, including any hazardous materials that may be used during construction, maintenance and decommissioning.
- (15) The application shall include soil sampling for common contaminants in order to establish a baseline and then periodically to be determined during the application review process, based on expert recommendations. Decommissioning soil sampling is also required.
- (16) The Applicant is required to notify all abutting property owners at the time applications are submitted. This notification shall include the project type, scope and contact information for questions or comments.

C. Special permit approval standards. Approval of the special permit requires that the Planning Board find that the proposed Battery Energy Storage System:

- (1) Protects adjacent land uses;
- (2) Has views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, vegetation or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports;
- (3) Will not adversely affect the neighborhood or the public health and safety; and

- (4) Satisfies all other applicable requirements of this Local Law, including the special permit minimum requirements as set forth in Section 8.D.

D. Special permit minimum requirements. Special permit approval requires conformance to the following minimum requirements:

- (1) Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the utility provider.
- (2) Signage.
 - a. The signage shall be in compliance with ANSI Z535, or applicable federal, state, county, and/or Town standards, 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.
 - b. 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.
- (3) Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and security purposes only. The lighting design should incorporate lighting that is motion-sensor controlled, fully shielded, and downward casting, and full cut-off fixtures (Dark Sky Compliant). Use of floodlights is discouraged. Lighting of other parts of the battery energy storage systems, such as appurtenant structures, shall be limited to that only required for safety and operational purposes.
- (4) Vegetation and tree-cutting. Areas on each side of the Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Cleared areas shall be only as needed for safety, security, and operational purposes and should not exceed 10 feet on each side. 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 maximum extent practical. Clear-cutting of all native and non-invasive trees in a single contiguous area exceeding 20,000 square feet shall be prohibited, except where the Battery Energy Storage Systems is co-located with a large-scale solar energy system approved to clear cut greater than 20,000 square feet. Forested sites shall not be deforested to construct a tier 2 battery energy storage system.
- (5) Security. Buildings must be protected from vehicle impact, including, but not limited to, protection provided by bollards.
- (6) Secondary containment. To the extent permitted under Uniform Code, secondary containment shall be provided to contain any release of electrolyte or other hazardous materials.
- (7) Noise. Noise levels from noise sources of battery energy storage systems will comply with the noise limits for substation and solar energy facilities contained in the New York Office of Renewable Energy Siting regulations at 19 NYCRR 900-6.5(b) by

- implementing the design required by 19 NYCRR 900-2.8 except that the standards applicable to existing non-participating residences shall also be met for existing participating residences.
- (8) Fencing requirements. Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a fence with minimum height of six feet and maximum height of eight feet, or of a height as otherwise required by the National Electric Code, with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building. The type and design of fencing shall be determined during site plan review. To the maximum extent practical, fencing shall allow for wildlife passage.
 - (9) Height. Battery Energy Storage Systems shall not exceed 15 feet in height.
 - (10) Setbacks. There shall be a minimum 100-foot setback between any component of the Battery Energy Storage System and the parcel boundary line. There shall be a minimum 250-foot setback between any component of the Battery Energy Storage System and a residential structure. There shall be a minimum 100-foot setback between any component of the Battery Energy Storage System and a public way. The Planning Board is authorized to increase the width of these setbacks after analysis of site conditions and adjacent land uses.
 - (11) The Battery Energy Storage System shall be located on a single lot.
 - (12) Screening and visibility. A screening and landscaping plan prepared by a licensed landscape architect shall be provided. The screening and landscaping plan should demonstrate that the landscaped buffer will provide year-round screening so that to the maximum extent practicable the Battery Energy Storage System is not visible from roadways and adjacent non-participating properties. In lieu of plantings, berms or existing vegetation may be used to satisfy all or a portion of the required landscaped screening. If the buffer utilizes vegetative planting, the planting shall consist of evergreen trees or bushes as recommended by the landscape architect, planted no more than eight feet apart and at least four feet tall at time of planting. The Planning Board may require financial security for the maintenance of the landscaping plantings.
- E. Conditions. The Planning Board shall include appropriate conditions to mitigate adverse impacts of the Battery Energy Storage System, including, but not limited to:
- (1) Prior to the issuance of a building permit, the operator shall provide a copy of all necessary titles to or leasehold interests in the facility, including ingress and egress access to public roads, and such deeds, easements, leases, licenses, or other real property rights or privileges as are necessary for all interconnections for the facility.
 - (2) The operator shall identify a responsible person with contact information for public inquiries from the commencement of construction of the battery energy storage system until the completion of the decommissioning plan.
 - (3) The operator is responsible to provide the Town of Columbus with a current written list of all chemicals used for maintenance and operation of the battery energy storage system (e.g. pesticides, herbicides, cleaners). This list shall include quantity and frequency of application of each of these chemicals.
 - (4) The operator shall secure and maintain public liability insurance from the commencement of construction of the battery energy storage system until the

completion of the decommissioning plan, subject to the approval of the Town Attorney.

- F. Waiver. The Planning Board may waive requirements on a case-by-case basis, upon good cause shown by the applicant.
- G. Site Plan. All Applicants shall also meet all provisions contained in current or future Site Plan Review Laws.
- H. SEQRA. In fulfilling the requirements of the State Environmental Quality Review Act (“SEQRA”), the Planning Board may require a Full Environmental Assessment Form (“EAF”) for the proposed Battery Energy Storage System. The Planning Board may require submittal of a more detailed visual analysis based on the information in, or analysis of, the EAF.
- I. First Responder Training. In the discretion of the Planning Board with input from the responding fire district, prior to issuance of a building permit, funding sufficient to provide training from an industry-recognized trainer or firm specializing in first response to Battery Energy Storage System emergencies and other events requiring response by fire district, police, and/or other first responders, as may be determined by the Planning Board, shall be provided in a form acceptable to the Planning Board. The Planning Board may, from time to time, require training of new personnel, and funding, or other mechanism for such training, as determined by the Planning Board, and such training and funding shall be at the sole cost and expense of the Applicant.
- J. Ownership Changes. If the owner of the Battery Energy Storage System changes or the owner of the property changes, the special permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special permit, site plan approval, and decommissioning plan. A new owner or operator of the Battery Energy Storage System shall notify the Building Inspector and Planning Board of such change in ownership or operator within 30 days of such change. A new owner or operator must provide such notification to the Building Inspector and Planning Board in writing. The special permit and all other local approvals for the Battery Energy Storage System shall be void if a new owner or operator fails to provide written notification to the Building Inspector and Planning Board in the required timeframe. Reinstatement of a void special permit will be subject to the same review and approval processes for new applications under this Local Law.
- K. Right to Inspect. In order to verify that the Battery Energy Storage System has been placed, constructed, modified and/or maintained in accordance with all applicable laws and the requirements of a special permit, the Town may inspect all facets of said Battery Energy Storage System. Any inspection by the Town which requires the assistance of a consultant or engineer shall be at the expense of the Battery Energy Storage System applicant.
- L. Decommissioning.

- (1) Decommissioning Plan. The Applicant shall submit a decommissioning plan, developed in accordance with the Uniform Code, to be implemented upon abandonment and/or in conjunction with removal from the Battery Energy Storage System. The decommissioning plan shall include:
 - (a) A narrative description of the activities to be accomplished, including who and/or what entity will perform that activity and at what point in time, for complete physical removal of all Battery Energy Storage System components, structures, equipment, security barriers, and transmission lines from the site;
 - (b) Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations;
 - (c) The anticipated life of the Battery Energy Storage System;
 - (d) The estimated decommissioning costs and how said estimate was determined;
 - (e) The method of ensuring that funds will be available for decommissioning and restoration;
 - (f) The method by which the decommissioning cost will be kept current;
 - (g) The manner in which the site will be restored, 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
 - (h) A listing of any contingencies for removing an intact operational Battery Energy Storage System from service, and for removing an energy storage system from service that has been damaged by fire or other event.
- (2) Decommissioning Security. The owner and/or operator of the Battery Energy Storage System, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town, for the removal of the Battery Energy Storage System, in an amount to be determined by the Planning Board, for the period of the life of the facility. The following standards shall apply to the decommissioning security:
 - (a) All costs of the financial security shall be borne by the applicant. The owner shall place with the Town an acceptable letter of credit, performance bond, or other form of security reasonably acceptable to the Town Attorney and Engineer that is sufficient to cover the cost of implementing the approved decommissioning plan. The letter of credit or other security shall be in the amount of 150% of the estimated cost of implementing the decommissioning plan. The estimated cost of implementing the decommissioning plan will be certified by a licensed professional engineer and reviewed by the Town's Engineer. The salvage value of the Battery Energy Storage System equipment shall not be accounted for in the estimated cost of implementing the decommissioning plan, unless determined otherwise by the Planning Board. The financial security shall be updated every fifth year thereafter specifying changes to the estimated cost of implementing the decommissioning plan.

- (b) The Town shall use this surety to assure the faithful performance of the decommissioning plan. The full amount of the bond or security shall remain in full force and effect until the decommissioning plan has been fully implemented.
- (c) The surety for implementing the decommissioning plan shall not be released until the Town's Engineer has confirmed that the approved decommissioning plan has been fully implemented.
- (3) In the event of default or abandonment of the Battery Energy Storage System, the system shall be decommissioned.
- (4) The decommissioning plan shall run to the benefit of the Town of Columbus and be executed by the applicant, operator and owners, and such signatures shall be notarized in a format that allows the plan to be recorded at the Chenango County Clerk. This document shall be recorded as an irrevocable deed restriction indexed against the property upon which the Battery Energy Storage System is to be constructed.

Section 9. Safety

- A. System Certification. Battery Energy Storage Systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for Battery Energy Storage Systems and equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:
 - (1) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
 - (2) UL 1642 (Standards 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 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.
- 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 responding 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 weather-proof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70 or other applicable standards, codes, and requirements.
- D. Emergency action plan. A copy of the approved emergency operations plan shall be given to the owner, the responding fire department(s), and Building Inspector. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency first responders. The owner and operator are responsible for ensuring any updates to the approved Emergency Operations Plan, and for

providing, and paying for, initial and annual training drills with the first responders, in the discretion of the Town.

Section 10. Special Permit Timeframes and Abandonment

- A. The special permit and site plan approval for Tier 2 Battery Energy Storage Systems shall be valid for a period of 24 months. In the event construction is not completed in accordance with the final site plan and special permit, as may have been amended and approved, within 24 months after approval, the Planning Board may extend the time to complete construction, upon good cause shown by the applicant, for up to an additional 24 months. If the owner and/or applicant fails to commence construction and receive a building permit after 48 months, the approvals shall expire. If the owner and/or applicant fails to perform, the Town may notify the owner/applicant to implement the decommissioning plan. In such instances, the decommissioning plan must be completed within 150 days of notification by the Town.
- B. The Battery Energy Storage System shall be considered abandoned when it ceases to operate consistently for more than one year. A report of system operational characteristics for the prior calendar year must be provided to the Building Inspector within 30 days of the end of each calendar year. If the owner and/or applicant fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, enter the property and 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.
- C. With the consent of the owner of the real property on which the installation in question is located, the Building Inspector along with the Town's Engineer and the Planning Board may allow the owner to implement the decommissioning plan while allowing the landscaping to remain.

Section 11. Converting Farmland to Battery Energy Storage Systems

- A. In accordance with State law, a conversion penalty is imposed if farmland that is subject to an agricultural assessment is located in an agricultural district and is converted to a nonagricultural use within five years of the last agricultural assessment (or eight years if the farmland is located outside an agricultural district). No conversion penalty is imposed if agricultural land is converted for oil, gas, or wind energy development that does not support agricultural production. Because Battery Energy Storage Systems are not included in this exemption, the conversion penalty may apply, as set forth in state law.
- B. The assessor determines whether a conversion has occurred on the basis of the facts of each case.

Section 12. Enforcement

- A. Appearance Tickets. The Code Enforcement Officer is authorized to issue appearance tickets for any violation of this Local Law.
- B. Penalties. In addition to such other penalties as may be prescribed by State law,
- (1) any person, corporation or entity who violates any provision of this Local Law or any permit, notice or order issued pursuant to any provision of this Local Law, shall be punishable by a fine of not more than \$250 per day of violation, or imprisonment not exceeding 15 days, or both; and
 - (2) any person, corporation or entity who violates any provision of this Local Law or any permit, notice or order issued pursuant to any provision of this Local Law shall be liable to pay a civil penalty of not more than \$500 for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of the Town of Columbus.
- C. Injunctive Relief. An action or proceeding may be instituted in the name of the Town of Columbus, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of this Local Law, or to enforce, any provision of this Local Law or any permit, notice or order issued pursuant to any provision of this Local Law. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board.
- D. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy available to address any violation described in this Local Law, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties in any other applicable law.

Section 13. 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.

Section 14. Effective Date

This Local Law shall take effect upon filing in the office of the Secretary of State.