

TOWN OF WINDSOR BATTERY ENERGY STORAGE SYSTEMS LOCAL LAW

Article I. General Provisions

Section 1.01 Authority

This Battery Energy Storage Systems Law (or “Local Law”) is adopted pursuant to Article IX of the New York State Constitution, §2(c), New York Town Law Article 16, and New York Municipal Home Rule Law § 20, which authorize the Town to adopt local laws that advance and protect the health, safety and welfare of the community.

Section 1.02 Statement of Purpose

This Local Law is adopted to advance and protect the public health, safety, welfare and quality of life of the Town of Windsor by creating regulations for the installation and use of Battery Energy Storage Systems (“BESS”), with the following objectives:

- a. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of BESS;
- b. To ensure compatible land uses in the vicinity of the areas affected by BESS;
- c. To mitigate the impacts of BESS on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and
- d. To create synergy between BESS development and other goals of the Town Comprehensive Plan including regulation of new energy generation and storage projects through management of electricity costs using renewable energy sources.

Article II. Definitions

Section 2.01 Word Usage

For the purpose of this Local Law, certain terms and words used herein shall be used, interpreted and defined as set forth in this article. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; words used in the plural number include the singular; the word “herein” means “in this Local Law.”

Section 2.02 Definitions

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 purpose of this Local Law, batteries utilized in consumer products are excluded from this definition.

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 (BESS) -- 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 Storage System as follows:

- 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.
- 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 (BESS) PERMIT -- A permit issued by the Town of Windsor to install a “Battery Energy Storage System” as defined hereunder.

BATTERY MONITORING SYSTEM (BMS) -- Remote, continuous safety monitor of BESS.

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 purpose of housing BESS 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 BESS are limited to personnel that operate, maintain, service, test, and repair the BESS and other energy systems.
4. Administrative and support personnel are permitted in areas within the buildings that do not contain BESS, provided the following: (a) the occupied areas must be less than ten (10) percent of the building area of the story in which they are located; and (b) a means of egress is provided from the administrative and support areas to the public way that does not require occupants to traverse through the areas containing BESS or other energy system areas.

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.

HOST IMPACT PLAN -- A plan where the BESS developer identifies: (i) the short term and long term impacts on the municipal services and community character; (ii) provides a detailed cost

estimate for the construction of the BESS system; (iii) based upon the detailed cost estimate, estimates of the annual Town (including special districts), County, and School real property taxes using the prior year's tax rates; (iv) indicates whether the BESS developer will seek a PILOT Agreement and, if so, the amounts being offered; (v) an evaluation of the impact to local road and road use mitigation plan (including county road and bridge use standards/overload policies); and (vi) the host community benefit plan, if any, being proposed by the BESS developer to mitigate or prevent any significant adverse environmental impacts on the Town.

INTERNATIONAL BUILDING CODE (IBC) – The model code published by the International Code Council.

INTERNATIONAL FIRE CODE (IFC) of 2024 -- The model code that establishes minimum fire safety requirements for buildings, facilities, and processes. Requires UL9540A, or equivalent, testing for BESS and includes Section 1207.1.8.1, guidance by experts to first responders as recommended by the NYS Interagency Fire Safety Working Group.

KILOWATT (kW) – a unit of power equal to 1,000 watts. The nameplate capacity of BESS or Solar Energy Systems may be described in terms of kW.

MEGAWATT (MW) -- A unit of power equal to 1,000 kW. The nameplate capacity of BESS, and/or Solar Energy Systems may be described in terms of MW.

MEGAWATT HOUR (MWh) -- A unit of energy, equivalent to the energy transferred or expended in one hour by one megawatt of power.

NAMEPLATE CAPACITY – A maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of Alternating Current (AC) or Direct Current (DC).

NATIONAL ELECTRIC CODE (NEC) -- A set of guidelines and regulations that govern the safe design and installation of electrical systems in the United States.

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.

NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) -- Organization that develops and publishes codes and standards for fire, electrical and building safety.

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 participating in a use or project.

NON-PARTICIPATING RESIDENCE -- Any residence located on non-participating property.

NON-RESIDENTIAL PROPERTY – A lot which does not contain a residential dwelling.

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 BESS host lot or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the BESS owner or operator regardless of whether any part of a BESS is constructed on the lot.

RESIDENTIAL DWELLING – A building containing a dwelling unit used for or intended to be used for residential occupancy.

RESIDENTIAL PROPERTY – Any lot which contains a residential dwelling.

UNDERWRITERS LABORATORY (UL) -- An accredited standards developer in the U.S. including UL9540.

UL9540A; ANSI/UL -- Standard for test methods to prove systems comply with fire safety standards. Determines capability to undergo thermal runaway and evaluates fire explosion hazard characteristics. Enables manufacturers to implement necessary design modifications to improve safety.

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.

YARD, FRONT – An open space on the same lot with a building or structure extending across the principal street side of a lot measured between the side lot lines, constituting the distance between the street line and the principal building or structure on the lot.

YARD, REAR – An open space on the same lot with a building or structure extending across the rear side of a lot measured between the side lot lines, constituting the distance between the rear lot line and the principal building or structure on the lot.

YARD, SIDE – An open space on the same lot with a building or structure located between any lot line other than a street line or rear lot line lying between the front and rear yards, constituting the distance between the side lot line and the principal building or structure on the lot.

Article III. Permitting Requirements

Section 3.01 Applicability

The requirements of this Local Law shall apply to all BESS facilities being proposed, permitted, installed, or modified in the Town of Windsor as of and/or after the effective date of this Local Law, excluding general maintenance and repair. BESSs constructed, installed, or possessing all

local approvals, including a building permit, prior to the effective date of this Local Law shall not be subject to the permit requirements of this Local Law. Modifications, retrofits or replacements of an existing BESS that increase the total BESS designed discharge duration or power rating shall be subject to this Local Law.

Section 3.02 General Requirements

- a. A building permit and an electrical permit shall be required for installation of all BESS.
- b. All BESS applications must comply with the recommendations of the Town of Windsor Highway Superintendent, Town Engineer or their designated agents.
- c. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act (SEQRA): New York Environmental Conservation Law Article 8 and its implementing regulations at 6 NYCRR Part 617, as applicable.
- d. All BESS, all Dedicated Use Buildings, and all other buildings or structures that contain or are otherwise associated with a BESS 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 and the Energy Code and all local laws of the Town of Windsor.
- e. No BESS shall be located within a designated floodplain within the Town of Windsor

Section 3.03 Permitting Requirements for Tier 1 Battery Energy Storage Systems

Tier 1 BESS shall be permitted in the Town of Windsor, subject to the Uniform Code, shall require a Battery Energy Storage System Permit, a building permit and an electrical permit. All Tier 1 BESS permits shall be issued by the Town Code Enforcement Officer. Tier 1 BESS shall be exempt from Site Plan review and from discretionary review by the Planning Board.

Section 3.04 Procedure for Review of Tier 2 Battery Energy Storage Systems Application

Tier 2 BESS are permitted through the issuance of Site Plan review and approval pursuant to the Town of Windsor Site Plan Review Law and a Battery Energy Storage System Permit, both reviewed and issued by the Town Planning Board and shall be subject to the Uniform Code.

- a. Applications for the installation of Tier 2 BESS shall follow the procedure below:
 - i. At least 60 days prior to submission of an application, the Applicant shall conduct a pre-application meeting with the Town of Windsor Supervisor and the Town Planning Board to ensure all parties have clear expectations regarding any Town requirements applicable to the application. A written request for this purpose shall be sent to the Town of Windsor Supervisor and the Town Planning Board. At the pre-application meeting, the Applicant must provide the following:
 - a) A brief description of the proposed BESS and its environmental setting.
 - b) A map of the BESS facility showing project components.
 - c) The proposed BESS's anticipated impacts.
 - d) A designated contact person with mailing address, telephone number and email address from whom information will be available going forward.
 - e) An anticipated submission date.

- f) Application fee.
- ii. Applications shall be reviewed by the Town Planning Board for completeness. An application shall be complete when it addresses all matters listed in this Local Law and the requirements of SEQRA have been met for an Unlisted or Type I project (e.g. negative declaration or Final Environmental Impact Statement/SEQR Findings). Applicants shall be advised of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
- iii. Applications shall be subject to a public hearing to hear all comments for and against the application. The Town Planning Board shall have a notice printed in a newspaper of general circulation, at the Applicant's expense in the Town at least five (5) days in advance of such hearing. Applicants shall mail the notice of public hearing by first class mail to all adjoining landowners and landowners owning property within five hundred (500) feet of the project property boundary at least ten (10) days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at or before the public hearing.
- iv. Applications shall be referred to the County Planning Department pursuant to General Municipal Law § 239-m, if required along with notice of the public hearing.
- v. The Planning Board will make its best efforts to issue its decision within 62 days after the close of the public hearing. Additional time to render a decision may be necessary in order to obtain additional information. Action on the application can include approval, approval with conditions, or denial.
- vi. The Planning Board will make its best efforts to coordinate its proceeding hereunder with its proceeding under the Town Site Plan Law.

Section 3.05 Requirements for Tier 2 Battery Energy Storage Systems Application

- a. *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.
- b. *Signage.*
 - i. The signage shall be in compliance with ANSI Z535 as amended and shall include the type of technology associated with the BESS, any special hazards associated, the type of suppression system installed in the area of BESS, and 24-hour emergency contact information, including reach-back phone number.
 - ii. 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.
- c. *Lighting.* Lighting of the BESS shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
- d. *Vegetation and tree-cutting.* Land areas within ten (10) feet on each side of Tier 2 BESS shall be cleared of combustible vegetation and other combustible growth and such clearing shall continue throughout the life of the BESS. Single specimens of trees,

shrubby, 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 such specimens do not form a means of readily transmitting fire. Removal of trees, with the exception of those within ten (10) feet on each side of the BESS should be minimized to the extent possible.

- e. *Noise.* The one (1) hour average noise generated from the BESS, components, and associated ancillary equipment shall not exceed a noise level of (60) dBA as measured at the outside wall of any non-participating residence or Occupied Community Building. Applicants may submit equipment and component manufacturer 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 BESS to demonstrate compliance with this standard.
- f. *Insurance.* Prior to the issuance of a building permit for construction of the BESS, the owner/operator shall agree to secure and maintain for the duration of construction and the life of the BESS, liability insurance as follows:
 - i. Commercial general liability covering personal injuries, death, pollution and property damage; \$5,000,000 per occurrence (\$10,000,000 aggregate) which shall specifically include the Town of Windsor and its officers, Boards, employees, attorneys, agents and consultants as additional named insured.
 - ii. Umbrella coverage: \$10,000,000.
 - iii. Insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state of New York with at least a Best's rating of "A."
 - iv. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Windsor with at least 30 days prior written notice in advance of cancellation.
 - v. Renewal or replacement policies shall be delivered to the Town of Windsor at least 15 days before the expiration of the current insurance policies.
 - vi. Prior to issuance of a building permit, the owner/operator shall deliver to the Town of Windsor a copy of each of the policies.
- g. *Fees/Expenses.* In addition to any fee that may be established by the Windsor Town Board for BESS applications, the Planning Board shall require the Applicant to pay all the Planning Board's associated costs incurred in connection with the review of an application. The Town Planning Board may incur expenses to properly review documents or conduct special studies in connection with the BESS application. These costs may include, but are not limited to, the cost of the Planning Board's engineering review, legal review, environmental, planning consultants, or any other expenses incurred in connection with the review of the BESS application. All expenses incurred for application review shall be charged to the Applicant. The Planning Board will make a reasonable estimate of expenses and will require this amount to be deposited in escrow with the Town Clerk prior to commencing the review of any application. The Applicant and the Town Board shall enter into an escrow agreement that provides for payment of the Planning Board's expenses incurred in reviewing the application which shall be funded by the Applicant. If the Applicant fails to replenish the escrow account as provided for in the escrow agreement or there are unpaid amounts for which the Applicant is responsible, the Planning Board may suspend review of the application

until such amounts are paid. In no event shall any BESS application be approved until such expenses have been paid in full.

- h. *Host Impact Plan.* BESS applications shall include a Host Impact Plan.
- i. *Decommissioning.*
 - i. *Decommissioning Plan.* The Applicant shall submit a Decommissioning Plan, developed in accordance with the Uniform Code and prepared by a NY Licensed Professional Engineer and signed by the owner/operator to the Town of Windsor for approval.
 - ii. *Abandonment and Triggering of Decommissioning Obligation.* The BESS shall be considered abandoned when it ceases to operate consistently for more than 12 consecutive months after the initial generation of electricity. After the BESS is abandoned, the owner or operator shall be required to commence decommissioning in accordance with the Decommissioning Plan and Decommissioning Agreement. If the owner or operator fails to comply with the decommissioning obligations after abandonment, the Town may, at its discretion, enter the property site and utilize the required fund to pay for the removal of the BESS and restoration of the site in accordance with the Decommissioning Plan and Decommissioning Agreement.
 - iii. *The Decommissioning Plan shall include:*
 - (a) A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all BESS components, structures, equipment, accessory structures, 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 BESS;
 - (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 BESS, 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;
 - (h) 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.
 - (i) In the case of active agricultural land or lands having Prime Farmland or Farmland of Statewide importance, the Decommissioning Plan and Agreement shall expressly incorporate the standards of NYS Department of Agriculture and Markets and the publication entitled: *Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands*, as amended.
 - (j) All Decommissioning activities shall comply with the strictest standards of

current and revised floodplain laws, regulations and standards.

- iv. Decommissioning Fund. The owner/operator of the BESS shall continuously maintain a fund/security payable to the Town of Windsor, in a form approved by the Town Board for the removal of the BESS. The Decommissioning Fund shall be no less than 150% of the current cost of removal and reclamation, with a 3% annual escalator and shall be reviewed every five years in the amount reasonably adjusted by the Planning Board. The cost estimate shall not include credit for salvage value of any components of the BESS. All costs of the financial security shall be borne by the Applicant. The Decommissioning Fund shall be deposited by the Town of Windsor in an interest-bearing trust account located at a federally insured, nationally licensed United States bank with a credit rating of "A" or better and total assets exceeding \$100 billion, naming said bank as "Trustee" of said funds. The Decommissioning Fund shall consist of one or more of the following which shall be deposited, filed or executed with the Town prior to issuance of a building permit:
 - (a) Certified or bank funds from a nationally licensed bank of the United States with a credit rating of "A" or better; or
 - (b) A surety bond issued by an insurance company, certified by the United States Department of Treasury, with an AM best rating of A or better and total assets exceeding \$100 billion; or
 - (c) A standby letter of credit issued by a nationally licensed bank of the United States with credit rating of "A" or better and total assets exceeding \$100 billion.
- v. Decommissioning Agreement. Prior to issuance of a building permit, the owner/operator shall enter into a Decommissioning Agreement with the Town of Windsor Town Board which sets forth binding decommissioning obligations as set forth in this Local Law which shall include:
 - (a) A provision that the owner/operator is fully liable and responsible for removal and reclamation of the site.
 - (b) A provision providing that owner/operator shall indemnify the Town for the costs of removal and reclamation of the site, should the owner/operator not fully and adequately decommission the site. The Decommissioning Agreement shall require the owner/operator, at all times to defend, indemnify, protect, save, hold harmless and exempt the Town of Windsor and its officers, Boards, employees, attorneys, agents and consultants from any and all penalties, damages costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity which might arise out of or are caused by the placement, construction, erection, modification, location, performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said BESS, excepting any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town of Windsor or its employees or agents. With respect to the penalties, damages or changes referenced herein, reasonable attorneys' fees, consultants' fees and expert witness fees are included in those costs that are recoverable by the Town of Windsor.

- (c) The commitment to securing the required Decommissioning Fund to ensure funds are available to decommission the site.
- (d) The requirement for a Decommissioning Agreement shall be a condition of approval.

Section 3.06 Submission Requirements for Tier 2 Battery Energy Storage Systems Application

- a. Site Plan Application. All Tier 2 BESS shall require Site Plan review and approval by the Town Planning Board in addition to compliance with this Local Law. Should there be a conflict between the requirements of this Local Law and The Town Site Plan Review Law, the requirements of this Local Law shall govern. Any site plan application shall include the following:
 - i. Property lines and physical features, including roads, for the project site.
 - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
 - iii. A one or three-line electrical diagram detailing the BESS layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
 - iv. A preliminary equipment specification sheet that documents the proposed BESS 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.
 - v. Name, address, and contact information of proposed or potential system installer and the owner/operator of the BESS. The final system installer information shall be submitted prior to the issuance of building permit.
 - vi. 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 BESS.
 - vii. 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, commissioning shall be conducted by an independent third-party 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 the Code Enforcement Officer prior to final inspection and approval and maintained at an approved on-site location.
 - viii. Operation and Maintenance Plan. Such plan shall describe continuing BESS 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. Compliance with the Operation and Maintenance Plan shall be a condition of approval.
 - ix. 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.

- x. Fire Safety Compliance Plan (Section 4.02).
- xi. Emergency Operation Plan (Section 4.03).
- xii. Decommissioning Plan (Section 3.05(i)).
- xiii. Host Impact Plan (Section 3.05(h)).
- xiv. Prior to the issuance of the building permit engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.

Section 3.07 Tier 2 Battery Energy Storage Systems Standards

- a. *Setbacks.* Tier 2 BESS shall meet the setback requirements in Table 1 unless otherwise waived by the Planning Board pursuant to Section 3.09. Fencing and collection lines shall not occur within the boundary line setback. Tier 2 BESS shall not be placed in the front yard. Access roads which provide access or egress to a public road shall be excluded from the setback requirements.
- b. *Height.* Tier 2 BESS shall be limited in height to fifteen (15) feet.
- c. *Fencing Requirements.* Tier 2 BESS, 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. Fencing shall not interfere with ventilation or exhaust ports.
- d. *Screening and Visibility.* Tier 2 BESS shall have views minimized from adjacent properties using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfere with ventilation or exhaust ports.

Section 3.08 Ownership Changes: Tier 2 Battery Energy Storage Systems

If the owner of the BESS changes or the owner of the property hosting the BESS changes, the Battery Energy Storage System Permit and Site Plan approval shall remain in effect, provided that the successor owner/operator assumes in writing all the obligations of the Battery Energy Storage System Permit, Site Plan approval, Decommissioning Plan, Decommissioning Agreement as well as any other agreements entered into with the Town of Windsor by the prior owner/operator. A new owner/operator of the BESS shall notify the Town of Windsor Town Board of such change in ownership or operator in writing at least 60 days before the ownership change. All local approvals for the BESS shall be void if a new owner or operator fails to provide written notification to the Town Board in the required timeframe. Reinstatement of local approvals shall be subject to the same review and approval processes for new applications under this Local Law.

Section 3.09 Waiver

The Planning Board shall have the authority to waive any provisions/requirements contained in this Local Law for projects that require Planning Board review when the Planning Board determines that waiver is consistent with the health, safety and welfare of the residents of the Town of Windsor so long as such waiver does not waive provisions otherwise required by law. Should the Planning Board grant a waiver, the Board may impose reasonable conditions associated with such waiver.

Article IV. Safety

Section 4.01 System Certification.

BESS and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540

(Standard for battery energy storage systems and Equipment), as amended or approved equivalent, with subcomponents meeting each of the following standards as applicable prior to operation:

- a. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications).
- b. UL 1642 (Standard for Lithium Batteries).
- c. UL 1741 or UL 62109 (Inverters and Power Converters).
- d. Certified under the applicable electrical, building, and fire prevention codes as required.
- e. 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.

Section 4.02 Fire Safety Compliance Plan.

All BESS applications require submission of a Fire Safety Compliance Plan at the time of application. That plan must be submitted to the Code Enforcement Officer for approval and, prior to obtaining a building permit, the Code Enforcement Officer shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code. The Fire Safety Compliance Plan shall include considerations similar to those found in a safety data sheet that will address response safety concerns and extinguishment. The Fire Safety Compliance Plan shall also be updated by the owner or operator for review and approval by the Planning Board every five years after project approvals, throughout the life of operation.

Section 4.03 Emergency Operations Plan.

All BESS applications require submission of an Emergency Operations Plan to the Code Enforcement Officer for approval. A final Emergency Operations Plan must be submitted prior to obtaining a building permit. 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 shall include sounding an alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
- e. Procedures for dealing with BESS equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged BESS equipment from the facility.
- f. Complete listing and on-site location of Material Data Sheets.
- g. 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.

Training of local first responders shall be done bi-annually. Classroom training to be completed in the winter with onsite training in the spring. Training will include local and mutual aid first responders. Any costs incurred in providing necessary training and equipment for first responders required to support the construction and operation of a BESS shall be reimbursed by the owner or Applicant upon the Town's submission of documentation of such costs.

- h. Procedures for ensuring emergency access to the BESS for local first responders by installing an emergency lock box or similar device, in a location subject to approval by the Fire Chief.
- i. Other procedures as identified by the Planning Board to provide for the safety of residents and emergency responders.
- j. A copy of the approved Emergency Operations Plan shall be given to the 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.

Section 4.04 Other Safety Protocols

The Town Planning Board may determine that additional safety submissions are required and/or reasonable conditions of approval be required to ensure the safety of occupants, neighboring properties, and emergency responders. The Planning Board shall make this determination on a case-by-case basis.

Section 4.05 Site Access

BESS 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 BESS is located in an ambulance district, the local ambulance provider.

Section 4.06 Working Space Clearances

BESS, 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.

Article V. Permit Time Frame and Abandonment

Site Plan approval and the Battery Energy Storage System Permit shall be valid for a period of 24 months, provided that a building permit is issued for construction within this period. In the event a building permit is not secured within 24 months of approval, the Planning Board may extend the time to secure a building permit at its discretion. If the owner or operator fails to secure a building permit within the extension period, the approvals shall expire.

Article VI. Enforcement

Any violation of this Local Law shall be subject to the same enforcement requirements and procedures, including civil and criminal penalties, provided for enforcement of the Town of Windsor Site Plan Law.

Article VII. 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.

Article VIII. Effective Date

This Local Law shall take effect immediately upon filing with the New York Department of State.

Table 1: Setback Requirements for Tier 2 Battery Energy Storage Systems

Non-participating, Residential Property Lines	1,000 feet
Non-participating, Residential Dwelling	1,000 feet
Non-participating, Non-Residential Property Lines	1,000 feet
Public Road	100 feet