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

G County G City Town G Village
(Select one:)

of West Sparta

Local Law No. 1 of the year 2024

A local law - Battery Energy Storage Systems

Be it enacted by the Town Board of the

G County G City Town G Village
(Select one:)

of West Sparta as follows:

FILED
STATE RECORDS
JUN 12 2024
DEPARTMENT OF STATE

A. This section concerning Battery Energy Storage Systems is adopted pursuant to Article IX of the New York State constitution, § 2(c)(6) and (10), New York Statute of Local Governments, § 10(1) and (7); § 261-263 of the New York State Town Law; and § 20 of the Municipal Home Rule Law.

B. Statement of Purpose

This Section is adopted to permit the construction of Battery Energy Storage Systems in the Town of West Sparta in a manner that advances and protects the public health, safety and welfare of the Town of West Sparta while facilitating the production of renewable energy. In so doing, this Section seeks to:

1. Provide a regulatory scheme for the designation of properties suitable for the location, construction, and operation of battery energy storage systems;
2. Ensure compatible land uses in the vicinity of the areas affected by battery storage energy systems;
3. Mitigate the impacts of battery energy storage systems on natural resources and Prime Farmland/Farmland of Statewide Importance along with wildlife, forests, streams, adjoining properties, and other protected resources.
4. Create synergy between battery energy storage system development and other stated goals of the community pursuant to its Comprehensive Plan.

C. The Town Board of the Town of West Sparta makes the following findings:

1. Up to present the Town Board of the Town of West Sparta has not prohibited or regulated the erection or creation of Battery Energy Storage Systems.

2. The Town Board of the Town of West Sparta recognizes that Battery Energy Storage Systems are capable of supporting solar energy, a clean, readily available and renewable energy source. At this time the Town of West Sparta intends to accommodate some use of Battery Energy Storage Systems so long as it may be demonstrated that there are no significant adverse effects on the Town's natural and agricultural resources as defined in the Town's Comprehensive Plan and the Town of West Sparta Agricultural and Farmland Protection Plan. This includes the Vision Statement on Page 1 of the Comprehensive Plan stating that the "Town of West Sparta recognizes its natural and agricultural resources for the economic benefits, environmental protection, and the significant recreational and scenic value ..." and that protection and stewardship ensures a high quality of life now and in the future and is the foundation of the community. The Town's Comprehensive Plan also includes farmland protection objectives, recognition of unique local conditions (i.e., the prevalence of highly productive soils throughout the entire Town), recognition that fragmentation of the land base is counter to local objectives and threatens the sustainability of agriculture as referenced in the Town of West Sparta Comprehensive Plan.

3. The Town Board acknowledges and finds a growing need to properly site renewable energy facilities, including Battery Energy Storage Systems within the boundaries of the Town of West Sparta so as to protect the large abundance of Prime Farmland/ Farmland of Statewide Importance within the Town, residential properties, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of West Sparta, to promote the effective and efficient use and storage of renewable energy, and to protect the health, safety and general welfare of the citizens of the Town of West Sparta.

4. Prior to the adoption of this Section, no specific procedures existed to address the siting of Battery Energy Storage Systems or to mitigate their potential impact upon adjoining properties or the public view shed. Accordingly, the Town Board finds that the promulgation of this Section is necessary to direct the location and construction of these systems.

5. Battery Energy Storage Systems need to be regulated for removal when no longer utilized.

D. Definitions

The following definitions shall apply to this section, as well as to other sections of this local law:

ANSI: American National Standards Institute

APPLICANT/OWNER/LANDOWNER/OPERATOR/SUCCESSOR: The person or entity filing an application and seeking approval under this Section and/or operating or assuming ownership or responsibility for a Battery Energy Storage System, including the owners of the real property upon which the Battery Energy Storage System is to be located.

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 Storage System as follows:

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

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

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 New York State 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, 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 system, 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.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation

Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies.

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.

IFC: International Fire Code.

LOCAL LAW, ETC.: Any reference herein to a law, local law, code, rule or regulation shall mean said law, local law, code, rule or regulation currently in effect as it may be amended or replaced at any future 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 New York State 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.

PRIME FARMLAND: Land designated as "Prime Farmland" in the US Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops.

UL: Underwriters Laboratory, an accredited standards developer in the US.

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.

E. Applicability.

The placement, construction and major modification of all Battery Energy Storage Systems, excluding general maintenance and repair, within the boundaries of the Town of West Sparta shall be permitted only as follows:

1. A special use permit and electrical permit issued by the Town of West Sparta Code Enforcement Officer shall be required for the installation of any Battery Energy Storage System.

2. All Battery Energy Storage Systems existing on the effective date of this local law shall be allowed to continue in usage as such presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. All new construction as well as all changes, modifications and/or additions to current Battery Energy Storage System, other than routine maintenance, shall comply with the requirements of this local law, and shall require a special use permit and electrical permit before construction begins.

3. No Battery Energy Storage System shall hereafter be erected, moved, reconstructed, changed or altered except in conformity with these regulations.

4. Issuance of permits and approvals by the Town of West Sparta Code Enforcement Officer and Town Zoning Board of Appeals (ZBA) shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].

5. All new Battery Energy Storage Systems, all Dedicated Use Buildings, all other buildings or structures that contain or are otherwise associated with a battery energy storage system and subject to the Uniform Code and/or the Energy Code, and all additions and modifications to any pre-existing systems, shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code and all of the Local Laws of the Town of West Sparta.

6. Any applications pending for Battery Energy Storage Systems on the effective date of this local law shall be subject to the provisions of this law.

7. To the extent this Local Law is inconsistent with any other law, local law, rule, regulation, or code, the more stringent requirements shall apply.

8. Any structure built in accordance with this law will meet or comply with the following:

a. The Applicant of any structure shall provide, at no cost to the Town or fire department, fire department training related to potential fire issues that are site specific and could arise from the structure, which training shall be provided when requested by the fire department, but must at least be provided on an annual basis, or as any updated equipment is installed;

b. If specialized equipment is needed by the fire department, the Applicant of battery energy storage structures will pay for the costs of such equipment or reimburse the applicable fire department or applicable local government office or agency for the purchase of same. If there is more than one (1) Applicant, then such Applicants shall share in the costs on a pro rata basis in proportion to the assessed value of the properties on which the structure owned by each Applicant is located;

c. If the Town itself does not have a fire department therein, then the requirements of paragraph 8 (a) and (b) directly above shall apply to the fire department(s) contracted by the Town to provide fire protection for the Town.

F. Use Districts Where Allowed.

Subject to the provisions of this Section, certain Battery Energy Storage System Systems shall be allowed as follows:

1. a. Tier 1 Battery Energy Storage Systems shall be permitted throughout the Town, subject to the Uniform Code and the “Battery Energy Storage System Special Use Permit,” and are exempt from site plan review.

b. Setbacks. Tier 1 Battery Energy Storage Systems shall comply with the setback requirements set forth on the above Article 3 Schedule for Single/Two-Family Dwellings.

2. Tier 2 Battery Energy Storage Systems are not permitted anywhere in the Town.

3. Any inconsistent provisions of any local law which purport to or may be interpreted to regulate or to allow Battery Energy Storage Systems other than as set forth in this Chapter are hereby superseded.

4. No Tier 1 Battery Energy Storage System, or portion thereof, will be permitted on prime farmland in any portion of the Town unless for on-site agricultural use and/or residential use only.

G. Tier 2 Requirements if This Law is Superseded

Although this law fully prohibits Tier 2 Systems in the Town, if this prohibition is superseded by Article 10 of the Public Service Law or any other Federal or State Law, Rule or Regulation, the following substantive factors should be considered in determining whether any Tier 2 system should be allowed:

1. No Tier 2 System, or any portion thereof, shall be allowed on prime agricultural farm land. It is the intent of this restriction to protect the valuable resource and benefits of Prime Farmland. It is the express intention of the Town of West Sparta that no variance or hardship request be granted to permit increased coverage by Tier 2 Systems on Prime Farmland by any board or commission or other agency having legal authority to consider and grant such a variance or hardship request.

2. The development and operation of a Battery Energy Storage System shall not have a significant adverse impact on agricultural operations or natural resources including Prime Farmland and fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of West Sparta or other federal or state regulatory agencies.

3. 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.

4. Signage.

a. 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.

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.

5. Lighting.

Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be dark sky compliant and shielded from all neighboring properties and public roads so as to prevent the illumination of adjoining properties or excessive lighting.

6. 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.

7. Noise.

The maximum noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 30 dBA as measured at the outside wall of any non-participating residence or occupied community building. 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.

8. Decommissioning for Tier 2 – See Town of West Sparta Solar Systems Local Law.

9. Compliance with Other Laws.

The system must be in compliance with all applicable provisions of the IFC, the Uniform Code and its Energy code, and all requirements of this law and other applicable laws, as well as flood plain requirements.

10. Tier 2 Battery Energy Storage Systems applications or submissions shall include the following information:

- a. Property lines and physical features, including roads, for the project site.
- b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- c. 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.
- d. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed, to the extent those equipment specification sheets are available. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

e. Name, address, and contact information of the system installer and the owner and/or operator of the battery energy storage system shall be submitted prior to the issuance of building permit.

f. 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.

g. Commissioning Plan. Prior to issuance of the building permit, 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 the Town Planning Board prior to final inspection and approval and maintained at an approved on-site location.

h. Fire Safety Compliance Plan. Prior to issuance of the building permit, such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.

i. System and Property Operations and Maintenance Manual. Prior to issuance of the building permit, 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.

j. 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.

k. Prior to the issuance of the building permit or final approval by the Town Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.

l. Emergency Operation Plan. 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. The emergency operations plan shall include the following information.

m. 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.

n. Procedures for inspection and testing of associated alarms, interlocks, and controls.

o. 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.

p. 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.

q. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.

r. 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.

s. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.

t. 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.

11. Other requirements for Tier 2 systems:

a. Setbacks. Tier 2 Battery Energy Storage Systems shall comply with the setback requirements set forth in the aforesaid Article 3 Schedule and the Town of West Sparta Solar Systems Local Law.

b. Height. Systems shall not exceed 15 feet in height from ground level.

c. Fencing Requirements. 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. If a fence surrounds the battery equipment pad then a minimum of 12 feet of separation is required between the battery rack equipment and the surrounding fence.

d. Screening and Visibility. System structures and devices used to support any Battery Energy Storage System shall be non-reflective and/or painted a subtle or earth-tone color. Battery Energy Storage Systems shall have views minimized from the road and 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 interfering with ventilation or exhaust ports. Evergreen tree plantings may be required to screen portions of the site from nearby residential property, public roads, and from public sites known to contain important views or vistas, such as gateway entrances to the Town. Battery Energy Storage System Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties.

e. Accessibility. All Tier 2 Systems shall be located so as to be readily accessible for all emergency service vehicles and personnel.

f. A fire protection and emergency response plan, created in consultation with and approved by the local fire department and the County Office of Emergency Management.

g. Security. Buildings must be protected from vehicle impact, including but not limited to protection provided by bollards.

H. Safety

1. 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) with subcomponents meeting each of the following standards as applicable:

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 and applicable codes, regulations and safety standards may be used to meet system certification requirements.

2. 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 a Battery Energy Storage System is served by a local ambulance district, the local ambulance corps in conjunction with snow and ice removal in the Local Solar Energy Local Law.

3. 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.

4. All Battery Energy Storage Systems shall adhere to all applicable federal state, county and Town of West Sparta codes, laws, regulations and building, plumbing, electrical and fire codes.

5. Road usage. Refer to the Local Solar Energy Local Law regarding any and all road usage.

I. Maintenance, Procedures and Fees

1. Once the required permits are obtained, completion of the project must occur within twenty-four (24) months from issuance of the permits, which TIME IS OF THE ESSENCE. If such construction is timely and properly completed, the Code Enforcement Officer shall issue a Certificate of Compliance. No Battery Energy Storage System may be activated or used until such certificate is issued. If the project is not completed and fully operational in said twenty-four (24) months, a certificate of compliance shall not be issued, the permits shall be automatically revoked, and before any more work can be done on the project, new permits must be obtained.

2. Inspections. Upon reasonable notice, the Town of West Sparta Code Enforcement Officer or his or her designee may enter a lot on which a Battery Energy Storage System has been constructed for the purpose of determining compliance with all requirements or conditions. Twenty-four (24) hours advance notice by telephone to the owner/operator or designated contact person shall be deemed one method of reasonable notice. Any fee or expense associated with this inspection shall be borne entirely by the permit holder/applicant and/or owner and/or operator. Irrevocable consent to such inspection shall be deemed given by the applicant upon submission of

the application for a permit and shall be contained in the written application for same signed by all property owners.

3. General complaint process. During construction, the Town Code Enforcement Officer can issue a stop order at any time for any violations of a site plan or permit, which stop work order shall be complied with immediately.

4. Continued operation. A Battery Energy Storage System shall be maintained in good condition and in continuous operation at all times subject to reasonable maintenance and repair outages. Further, the Code Enforcement Officer shall also have the right to request documentation from the owner for a Battery Energy Storage System regarding the system's usage at any time, which request shall be complied with within seven (7) days.

5. If the use of an approved Battery Energy Storage System is discontinued for any reason other than temporary repair, the owner or operator shall notify the Code Enforcement Officer within thirty (30) days of such discontinuance. If a Battery Energy Storage System is to be retained and reused, the owner or operator shall also inform the Code Enforcement Officer of this in writing at the same time. Any such reuse shall require new permits. If such new permits are not obtained in one (1) year, the system shall be deemed abandoned.

6. Removal and Remediation. Other than as provided in paragraph 5 directly above, where a Battery Energy Storage System has been discontinued, abandoned, or where the permit has been revoked, such system shall be dismantled as per the required decommissioning plan and funds described above. All such removal and remediation shall occur within six months after both

(1) such discontinuance, abandonment or revocation has occurred, and

(2) the Code Enforcement Officer issues an Order to Remedy directing such removal and remediation with a one-time extension at the discretion of the Code Enforcement Officer. All such work shall be inspected for satisfactory compliance by the Code Enforcement Officer. The soil remediation required is that the land on and near where such systems are located be properly landscaped to the Code Enforcement Officer's satisfaction and planted to support vegetation and natural plant life of that area (native and non-invasive) to the extent such existed prior to installation. The requirement for said removal and remediation shall be the joint and severable obligation and liability of each and every applicant, landowner, operator, and successor of said system. If said removal and remediation is not completed to the satisfaction of the Code Enforcement Officer in the time allowed, the Town may seek all remedies allowed by this Local Law. As one such remedy, the Town may, but does not have to, conduct the removal and remediation itself, and charge all costs and expenses to the aforesaid parties obligated to perform same, together with all legal fees and related costs to fully enforce and collect all such sums, along with all civil penalties set forth herein.

7. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Battery Energy Storage System shall be made by the Code Enforcement Officer, who shall provide the Battery Energy Storage System owner, applicant, landowner and successors with written notice and an Order to Remedy by personal service or certified mail. The battery energy storage system shall be considered abandoned when it ceases to operate consistently for one (1) year.

8. Application Fees.

a. Fee for issuance of a building permit. Tier 1 applicants shall pay a building permit fee of one half of one percent of the project cost, or such other amount as the Town Board may, from time to time, determine by resolution.

b. In addition, the applicant shall be responsible to pay, up front, for all engineering, legal and other professional expenses reasonably incurred by the Town throughout its review process. Failure to pay said fee and expenses shall suspend the site plan review process.

9. Prior to the issuance of a building permit, the applicant shall document to the Town that all applicable federal, state, county and local permits have been obtained.

10. Any changes or alterations during or after construction to a Battery Energy Storage System cannot be done until amendment to any previously issued permit and/or site plan (if required) has (have) first been obtained, subject to all requirements of this Code.

J. Effective Date

This local law shall take effect upon filing with the Secretary of State.

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

(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. 1 of 2024 of the Town of West Sparta was duly passed by the Town Board on May 9, 2024, in accordance with the applicable 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____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) and was deemed duly adopted on _____ 20____, in accordance with 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 _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20____. 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 _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20____. Such local 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.)~~

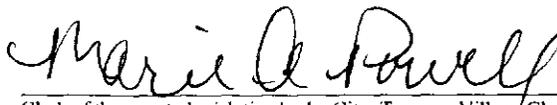
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 1, above.



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

Date: May 9, 2024

(Seal)