

VILLAGE OF WARWICK

LOCAL LAW NO. __ OF THE YEAR 2023

A Local Law establishing a one (1) year moratorium on the acceptance and processing of applications for land use approvals for public utility facilities involving energy storage systems in the Village of Warwick.

BE IT ENACTED that the Village of Warwick imposes a moratorium on approval of public utility facilities involving energy storage systems as follows:

Section 1. Authority

This Local Law is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York.

Section 2. Short Title

This Local Law shall be known as: “The Village of Warwick Temporary Moratorium on the Acceptance and Processing of Applications for Approval of Public Utility Facilities Involving Energy Storage Systems.”

Section 3. Definitions

"Code" means the Village of Warwick Code.

"Public utility facilities involving energy storage systems" means any building or site at which electricity is stored in batteries for purposes of supplying power to the electrical utility grid.

"Village" means the Village of Warwick.

"Village Board" means the Village Board of the Village of Warwick.

"Village Clerk" means the Village Clerk of the Village of Warwick.

Section 4. Legislative Purpose

The Village of Warwick has recently experienced serious fires at public utility facilities involving energy storage systems which posed a grave risk to the health, welfare and safety of Village residents. The Village Board of the Village of Warwick has determined that the Village Code lacks provisions sufficient to oversee the approval and safe operation of public utility facilities involving energy storage systems. The intent of this Local Law is to impose a one (1) year moratorium on the acceptance and processing of applications for land use approvals for public utility facilities involving energy storage systems in the Village of Warwick in order to afford the Village Board time to develop and enact local regulations sufficient to oversee the approval and safe operation of the same.

Section 5. Imposition of Moratorium

For a period of one (1) year from and after the effective date of this Local Law, except as provided in Sections "6" and "7" below no applications for land use approvals for public utility facilities involving energy storage systems shall be accepted or processed by the Village for any real property located in the Village of Warwick.

Section 6. Exemptions

This Local Law shall not apply to any application for approval of a public utility facility involving energy storage systems designed for and installed in a residential use.

Section 7. Alleviation of Extraordinary Hardship

A. The Village Board may authorize exceptions to the moratorium imposed by this Local Law when it finds, based upon evidence presented to it, that deferral of action on an application for approvals for public utility facilities involving energy storage systems during the term of this moratorium would impose an extraordinary hardship on a landowner or applicant.

B. An application for an exception based upon extraordinary hardship shall be filed with the Village Clerk, including a fee of Five Hundred and 00/100 Dollars (\$500.00) for each tax map parcel claimed to be subject to extraordinary hardship, by the landowner or the applicant, upon the consent of the landowner. The application shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship and shall contain such other information and/or documentation as the Village Board shall prescribe as necessary for the Village Board to be fully informed with respect to the application.

C. A public hearing on any application for an exception to this Local Law based upon extraordinary hardship shall be held by the Village Board at a meeting of the Village Board no later than thirty (30) days after the complete application for an extraordinary hardship exception has been filed with the Village Clerk. The Village Board shall determine, by resolution duly adopted, when an application based upon extraordinary hardship is complete.

D. In reviewing an application for an exception based upon a claim of extraordinary hardship, the Village Board shall consider the following criteria:

1. The extent to which the proposed development impacts environmentally sensitive land, would cause environmental degradation, or would adversely impact nearby properties and the neighborhood.
2. Whether the moratorium will expose a property owner or applicant to substantial monetary liability to a third person or would leave the property owner or applicant completely unable, after a thorough review of alternative solutions, to have a reasonable alternative use of the property.
3. The extent to which actions of the applicant were undertaken in the good faith belief that the proposed development of a public utility facilities involving

energy storage systems constituted an approvable use under the existing provisions of the Village Code.

E. Mere delay or concern that new regulations regarding public utility facilities involving energy storage systems may be adopted is insufficient to constitute an extraordinary hardship under this section.

F. At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Village Board shall, in its sole discretion, act upon the application for an exception based upon extraordinary hardship. The Village Board may approve, deny or approve in part and deny in part the application being acted upon.

Section 8. Default Approvals Abolished.

Notwithstanding any law, rule, or regulation to the contrary, no applications for public utility facilities involving energy storage systems shall be granted, deemed granted, or dispensed with as a result of the passage of time during the effective period of this moratorium. Any and all land use approvals for public utility facilities involving energy storage systems granted during the period of the moratorium shall require the affirmative vote of the reviewing board(s) with jurisdiction and endorsement of the plat or plan as otherwise required by law.

Section 9. Penalties.

A. Any person, firm or entity that operates a public utility facility involving energy storage systems without required approvals shall otherwise violate any of the provisions of this Local Law shall be subject to:

1. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, regulations of the Village for violations; and
2. A fine not to exceed \$500.00 per day from the date that any action is taken in contravention of this local law, together with any other civil remedies available at law; and
3. Injunctive relief in favor of the Village to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any such uses that may have taken place in violation of this Local Law.

B. Any application accepted or approval granted in violation of this Local Law shall be null and void.

Section 10. Extension or Termination of Moratorium.

A. This moratorium may be extended by two (2) additional periods of up to six (6) months each by resolution of the Village Board upon a finding of need for such extension(s).

B. This moratorium, and any extensions thereof, may be terminated at any time by resolution of the Village Board.

Section 11. Validity

In the event that any section, sentence, clause or phrase of this Local Law is held to be invalid or unconstitutional by any court of competent jurisdiction, said holding shall in no way affect the validity of the remaining portions of this Local Law.

Section 12. Effective Date

This Local Law shall become effective upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Village Board.