

LEGAL NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE, the Town Board of the Town of Poughkeepsie has determined that it is in the best interest of the citizens and property owners of the Town of Poughkeepsie to impose a Temporary Moratorium on the acceptance and processing of applications for, the consideration and approval by the Town Planning Board of site plans and special use permits for Large Scale Battery Energy Storage System Installations, the issuance of building permits therefore, and the consideration, approval and issuance by the Zoning Board of Appeals of variances and interpretations relating to Large Scale Battery Energy Storage System Installations, for a period of six months, subject to certain exceptions and subject to extension

SO PLEASE TAKE FURTHER NOTICE, that the Town Board Town of Poughkeepsie does hereby set the 6th day of March, 2024 at 7:00 p.m. at the Town Hall, Town of Poughkeepsie, One Overocker Road, Poughkeepsie, NY, as the time, date and place of a public hearing at which all parties in interest and citizens may be heard as to whether or not the Town Board of the Town of Poughkeepsie should adopt proposed Local Law annexed hereto imposing a Temporary Town-Wide Moratorium as described therein for a period of six months (subject to extension) by this Town Board

AND PLEASE ALSO TAKE FURTHER NOTICE that said proposed local law is available in full with Exhibit to preview on our website @ <https://ny-poughkeepsietown.civicplus.com/300/Public-Hearings> or in person @ the Town Clerk's Office, Monday – Friday, 8AM – 4PM.

Felicia Salvatore, Town Clerk
Town of Poughkeepsie
February 8, 2024

RESOLUTION 2:7 - # 2 OF 2024

WHEREAS, the Town of Poughkeepsie Zoning Code does not currently provide specific regulations for Large Scale Battery Energy Storage System Installations, and

WHEREAS, the Town Board anticipates that the Town of Poughkeepsie may receive applications for such facilities, and

WHEREAS, if not properly regulated, Large Scale Battery Energy Storage System Installations have the potential to create risks to public health and safety and adverse impacts on environmental resources and neighborhood character, which potential impacts and changes need to be better understood, and

WHEREAS, to enable the Town Board to analyze the potential for those impacts and changes, and their severity, and to determine whether legislative action is required, it is necessary to preserve the status quo as to the approval and development of Large Scale Battery Energy Storage System Installations, and

WHEREAS, the Town Board hereby determines that it is in the best interest of the citizens and property owners of the Town of Poughkeepsie to impose a Temporary Moratorium on the acceptance and processing of applications for, the consideration and approval by the Town Planning Board of site plans and special use permits for Large Scale Battery Energy Storage System Installations, the issuance of building permits therefore, and the consideration, approval and issuance by the Zoning Board of Appeals of variances and interpretations relating to Large Scale Battery Energy Storage System Installations, for a period of six months, subject to certain exceptions and subject to extension; and

WHEREAS, the Town Board determines that the proposed action is a Type II Action not subject to environmental review pursuant to 6 NYCRR §617.5 (c)(36), now therefore

BE IT RESOLVED, that the recitations above set forth are incorporated in this resolution as if fully set forth and adopted herein; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby set the 6th day of March, 2024 at 7:00 p.m. at the Town Hall, Town of Poughkeepsie, One Overocker Road, Poughkeepsie, NY, as the time, date and place of a public hearing at which all parties in interest and citizens may be heard as to whether or not the Town Board of the Town of Poughkeepsie should adopt the proposed Local Law annexed hereto imposing a Temporary Town-Wide Moratorium as described therein for a period of six months (subject to extension) by this Town Board, and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby waive the verbatim reading of said proposed Local Law and does hereby direct the Town Clerk to spread the proposed local law across the record as if it had been read aloud; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Poughkeepsie does hereby direct the Town Clerk to refer a copy of this resolution, the annexed proposed local law, and the Notice of Public Hearing to the municipal clerk of each abutting municipality not less than ten (10) days prior to said public hearing and to refer a copy of this resolution, the annexed proposed local law, and the Notice of Public Hearing to the Dutchess County Department of Planning and Economic Development for advisory review in accordance with §239-m of the General Municipal Law, and to distribute a

copy of this resolution, the annexed proposed local law and the Notice of Public Hearing to the Town of Poughkeepsie Planning Board for its review and recommendation pursuant to Town Code §210-154; and

BE IT FURTHER RESOLVED, that the Town Clerk is hereby directed to post a Notice of Public Hearing in the Town's official newspaper, the Poughkeepsie Journal, and on the bulletin board maintained by the Town Clerk in the Town Hall not less than ten (10) days prior to said public hearing.

Dated: February 7, 2024
 Moved: Barbara Laird
 Seconded: Michael Cifone

Motion passes/ fails: Ayes 7 Nays 0

ES/mem
 t-2/2/2024
 m-2/7/2024

	AYE	NAY	ABSTAIN
<u>PRESENT</u> /ABSENT Councilman Reuter	<u>✓</u>	—	—
<u>PRESENT</u> /ABSENT Councilwoman Laird	<u>✓</u>	—	—
<u>PRESENT</u> /ABSENT Councilwoman Burger	<u>✓</u>	—	—
<u>PRESENT</u> /ABSENT Councilman Cifone	<u>✓</u>	—	—
<u>PRESENT</u> /ABSENT Councilman Sharpe	<u>✓</u>	—	—
<u>PRESENT</u> /ABSENT Councilwoman Shershin	<u>✓</u>	—	—
<u>PRESENT</u> /ABSENT Supervisor Edwards	<u>✓</u>	—	—

LOCAL LAW NO. ____ OF 2024

A LOCAL LAW ENTITLED LOCAL LAW NO. ____ OF THE YEAR 2024,
IMPOSING A TEMPORARY TOWN-WIDE MORATORIUM ON DEVELOPMENT
OF LARGE SCALE BATTERY ENERGY STORAGE SYSTEM INSTALLATIONS
WITHIN THE TOWN OF POUGHKEEPSIE

BE IT ENACTED, by the Town Board of the Town of Poughkeepsie as follows:

Section 1: TITLE.

This Local Law shall be known and cited as Town of Poughkeepsie Local Law No. ____ of 2024 entitled “Local Law No. ____ of 2024, Imposing a Temporary Town-Wide Moratorium on Development of Large Scale Battery Energy Storage System Installations Within the Town of Poughkeepsie.”

Section 2: PURPOSE AND INTENT.

A. It is the intention of the Town Board of the Town of Poughkeepsie in enacting this local law to temporarily suspend the development of Large Scale Battery Energy Storage System Installations (as defined in Section 3) within the Town of Poughkeepsie for a period of up to six (6) months, pending the development and adoption of a local law or laws to regulate and govern such installations.

B. Currently, the Town of Poughkeepsie Zoning Code does not contain a definition of a Large Scale Battery Energy Storage System Installation, or specific use, area or bulk regulations for such use. The Town Board recognizes that the Town needs to study and analyze many considerations that affect the preparation of local legislation to regulate the future creation and siting of Large Scale Battery Energy Storage System Installations in a manner consistent with public health, safety and community character. It is deemed necessary to enact this temporary moratorium in order to permit the Town adequate time in which to consider and draft suitable legislation for this purpose.

C. During the period of this temporary moratorium, the Town Board intends to suspend land use regulations in the Town Code that conflict with the effect and intent of this local law. Further, the Town Board specifically intends to supersede the default approval provisions of Town Law § 276(8) and other provisions of the Town Law that conflict with the intent and operation of this local law.

Section 3: DEFINITIONS.

For purposes of this local law, the following term shall have the meaning set forth:

Large Scale Battery Energy Storage System Installation – Any installation of a rechargeable energy storage system having an aggregate energy capacity of 600kWh or more, consisting of electrochemical storage batteries or similar technology, battery

charges, controls, power condition systems, inverters, transformers, switchgears and/or associated electrical equipment designed to store electrical power received from a generating or transmission source and periodically discharge power from the battery energy storage system into the power grid. Systems typically used to provide standby or emergency power and/or an uninterruptable power supply, load shedding, load sharing, or similar capabilities relating to the energy consumed by a residence, farm operation or business on site and having an aggregate energy capacity of less than 600kWh shall not be considered a “Large Scale Battery Energy Storage System Installation” for purposes of the moratorium.

Section 4: LEGISLATIVE FINDINGS OF FACT.

A. The Town Board hereby finds that, pending the completion of the necessary studies, meetings, hearings, environmental review and other actions necessary and incident to proper consideration and adoption of any revisions or amendments to the land use regulations of the Town related to the regulation of Large Scale Battery Energy Storage System Installations, reasonable measures must be taken to maintain the status quo with reference to such installations for a temporary period.

B. The Town Board finds that the protection of the public interest and welfare is necessary to prevent premature and inappropriate land use and development that would be inconsistent with the Town Plan, or the orderly and appropriate development in the community.

Section 5: SCOPE OF CONTROLS.

A. During the effective period of this local law, the Town Board, Planning Board, Zoning Board of Appeals, Director of Municipal Development, Building Inspectors and Zoning Administrator shall not permit, accept, process, interpret, deliberate upon, decide or approve any application for a Large Scale Battery Energy Storage System Installation, except as set forth in Section 6 below.

B. Unless permitted pursuant to Section 6 below, from the date of this local law, no person or entity shall use any land, body of water, building, or other structure located within the Town of Poughkeepsie for any Large Scale Battery Energy Storage System Installation.

C. This moratorium shall be in effect beginning on the effective date of this local law and shall expire on the earlier of (i) that date which is six (6) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating the Town Board has determined that the need for this moratorium no longer exists.

D. Under no circumstances shall the failure of the Town Board, Planning Board, Zoning Board of Appeals, or any officer of the Town of Poughkeepsie to take any action upon any application for a permit, variance, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, or any other Town level approval

related to a Large Scale Battery Energy Storage System Installation constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

Section 6: HARDSHIP.

A. Should any owner of property affected by this local law suffer any unique and unnecessary hardship resulting from carrying out the strict letter of this local law, then the owner of said property may apply to the Town Board of the Town of Poughkeepsie in writing for a waiver from strict compliance with this local law upon submission of proof of such unnecessary hardship. For the purpose of this local law, unique and unnecessary hardship shall not be a mere delay in being permitted to make an application or waiting for a decision on the application for a special permit, site plan, subdivision, variance or other permit during the period of the moratorium imposed by this local law.

B. Procedure.

1. Upon submission of a written application to the Town Clerk by the property owner seeking a waiver from this local law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a public hearing on said application upon five (5) days notice published in the official newspaper of the Town. Notice of said public hearing by regular mail shall be provided to abutting property owners at the address shown on the tax rolls.

2. At said public hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within fifteen (15) days of the close of said public hearing or at the next regularly scheduled Town Board meeting (whichever is later), render its decision either granting or denying the application for variation from the strict requirements of this local law.

3. If the Town Board determines that a property owner will suffer an unnecessary hardship if this local law is strictly applied to a particular property, then the Town Board shall waive the application of this local law to the minimum extent necessary to provide the property owner relief from strict compliance with this local law.

Section 7: PENALTIES FOR OFFENSES.

Any person, firm, entity or corporation that shall construct, erect, enlarge or alter any building or structure in violation of the provisions of this local law or shall otherwise violate any of the provisions of this local law shall be guilty of a violation and subject to a fine of not less than \$200.00 nor more than \$1,000.00. Each day that the violation continues shall be a separate offense.

Section 8: CONFLICTING LAWS SUPERSEDED.

All local laws, ordinances, or parts of local laws and ordinances, of the Town of Poughkeepsie that are in conflict with the provisions of this local law are hereby suspended to the extent necessary to give this local law full force and effect during the effective period of the moratorium.

Section 9: SUPERSESSION OF THE TOWN LAW

This local law is hereby adopted pursuant to Municipal Home Rule Law § 10 (1)(i) and § 10(1)(ii)(a)(14) and Statute of Local Governments § 10(6) of the State of New York. It is the intent of the Town Board, pursuant to Municipal Home Rule Law § 10(1)(ii)(d)(3), to supersede all provisions of the New York State Town Law, including, but not limited to, Town Law § 276(8), and/or those provisions relating to time limits in connection with zoning and planning determinations, as well as to vest any authority to approve a variance from this local law solely in the Town Board.

Section 10: SEVERABILITY.

A. If a court of competent jurisdiction finds any provision(s) of this law invalid, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid, and all other provisions of the law shall continue to be separately and fully effective.

B. If a court of competent jurisdiction finds the application of any provision of this law to any building, other structure or tract of land to be invalid, in whole or in part, the effect of such decisions shall be limited to the person, property or situation involved in the controversy, and the application of any such provision to any other person, property or situation shall not be affected.

C. The provisions of this local law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Poughkeepsie that this local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the local law or part thereof is held inapplicable had been specifically exempt therefrom.

Section 11: TERM.

This local law shall remain in force for a period of six (6) months from its effective date. This local law is subject to review and renewal by the Town Board of the

Town of Poughkeepsie for two (2) additional three (3) month extensions by this Town Board.

Section 12: EFFECTIVE DATE.

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