

LOCAL LAW NUMBER 1 OF THE YEAR 2026

A LOCAL LAW OF THE TOWN OF LAFAYETTE, also known as “The Town of LaFayette Battery Energy Storage System Law,” in relation to the regulation of battery energy storage systems in the Town of LaFayette.

This Local Law shall take effect immediately upon filing with the New York State Secretary of State pursuant to §27 of the Municipal Home Rule Law.

BE IT ENACTED by the Town Board of the Town of LaFayette, Onondaga County, New York, as follows: That Town of LaFayette Local Law Number ___ of the year 2026 entitled “The Town of LaFayette Battery Energy Storage System Law” is hereby enacted. Said Local Law amends the Town Code as follows:

By creating a new Section 290-32.1, entitled “Battery Energy Storage Systems” as follows:

§290-32.1 Battery Energy Storage Systems

A. AUTHORITY.

This Battery Energy Storage System Law is adopted pursuant authority granted by the following:

- A. New York State Constitution Article IX §2(c)(6) and §2(c)(10);
- B. Statute of Local Governments §10(1), §10(6), and §10(7);
- C. Municipal Home Rule Law §10(1)(i), §10(1)(ii), §10(1)(ii)(a)(6), §10(1)(ii)(a)(11), §10(1)(ii)(a)(12), and §10(1)(ii)(a)(14);
- D. Town Law Article 16;
- E. Town Law §130(1), §130(3), §130(5), §130(7), §130(7-a), §130(11), §130(15), §130(15-a), §130(16), §130(19), and §130(25);
- F. Town Law §64(17-a) and §64(23);
- G. The Town of LaFayette’s inherent police powers; and
- H. The laws of the State of New York.

B. STATEMENT OF PURPOSE AND FINDINGS.

The Town Board of the Town of LaFayette finds a need to properly site battery energy systems within the boundaries of the Town to protect residential, business areas, and other land uses, to preserve the overall beauty, nature, and character of the Town, to promote the effective and efficient use of battery energy resources, and to protect the health, safety, and general welfare of the citizens of the Town. This Battery Energy Storage System Law is adopted to advance and protect the public health, safety, and welfare of Town by creating regulations for the installation and use of battery energy storage systems and equipment, with the following objectives:

- A. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;

- B. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
- C. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources;
- D. To ensure appropriate siting of battery energy storage systems in accordance with Town policy and the Town's Comprehensive Plan; and
- E. To create synergy between battery energy storage system development and:
 - (1) Promote and manage new development in the Town to protect resources and the Town's unique identity, create new places, and balance the cost of providing public services;
 - (2) Ensure that growth occurs in a manner that preserves the quality of life and character of the community;
 - (3) Preserve and enhance the character of existing neighborhoods and hamlets;
 - (4) Preserve and protect natural resources and farmland, and support the agricultural economy; and
 - (5) Ensure the availability of public facilities, infrastructure, and services that adequately serve the present and future needs of LaFayette.

The Town Board of the Town of LaFayette makes the following findings, which are cumulative and interrelated and shall be liberally construed:

- A. Throughout New York State, shortsighted and haphazard planning has resulted in the creation or exacerbation of problem industries which adversely impact public health and quality of life, cause proliferation of pollution, compromise aesthetics, and degrade community character;
- B. Battery energy storage systems have increased significantly in number throughout the State and country and without careful planning, they can be sited without sufficient regard for their impact on the health, welfare, and safety of residents;
- C. The Town of LaFayette is a suburban community with steep slopes and a significant amount of wetlands;
- D. The Town of LaFayette has a significant agricultural community supporting various agricultural uses;
- E. If not properly regulated, installation of battery energy storage systems can create drainage problems through erosion and lack of sediment control for facility and access roadsides and can harm farmland and wetlands through improper construction methods;
- F. Battery energy storage systems, when improperly sited, are known to adversely affect property values and cause economic hardship to property owners;
- G. Battery energy storage systems may be significant sources of noise, including infrasound, that, if unregulated, can negatively affect quiet enjoyment of the area, properties, and the health and quality of life of residents;

- H. Construction of battery energy storage systems can create traffic problems and can cause damage to local roads and infrastructure due to the weight of the units;
- I. Battery energy storage systems need to be regulated for removal when no longer utilized. It is incumbent upon the Town of LaFayette to ensure that funding for removal is secured as part of the permitting process;
- J. As of the date of enactment of this Section, the overwhelming majority of utility- or grid-scale battery energy storage systems in the United States, which are classified as “Tier 3” herein, utilize lithium-ion cells. While lithium-ion battery technology offers numerous advantages in terms of longevity, energy density, and weight, it has numerous drawbacks as well, many of which are of concern to the Town Board, including but not limited to the following:
 - (1) Lithium-ion batteries utilize flammable electrolytes rather than the aqueous (water-based) electrolytes found in older battery technologies such as lead-acid and nickel-metal hydride;
 - (2) Lithium-ion batteries are particularly vulnerable to a condition known as “thermal runaway” whereby heat is generated at a higher rate than it can be dissipated. If a cell-specific critical temperature is reached, the internal cell structure can break down and the flammable electrolyte generates a flammable gas. If the internal pressure within the cell exceeds the mechanical strength of the battery housing, the housing may rupture. Alternatively, if the pressure exceeds a pre-set limit, a safety valve may open. In either case, a situation known as an “off-gas” event has occurred, and if an ignition source is present, the gaseous electrolyte may ignite. Lithium-ion thermal runaway generates its own oxygen because the metal oxides in the cathode material decompose when heated and release oxygen gas. This internal oxygen supply makes the fire self-sustaining and very difficult to extinguish with methods like smothering. This self-sustainment makes normal fire-control procedure insufficient and, therefore, requiring additional expenditures for specialized extinguishing or suppression control equipment.
 - (3) Ignition of gaseous electrolyte or the heat generated by the thermal runaway itself can heat adjacent cells above their critical temperatures, resulting in a cascading thermal runaway. Thus, a failure in a single cell failure may propagate and cause a catastrophic event involving the entire system;
 - (4) Off-gas events can release substantial amounts of electrolyte and combustion gases. Off-gases from lithium-ion batteries are extremely toxic and can contain mixtures of carbon monoxide, hydrogen, ethylene, methane, ethane, benzene, hydrogen fluoride, hydrogen chloride, and hydrogen cyanide, depending on the battery type. Hydrogen fluoride forms hydrofluoric acid upon contact with water, including water vapor in the air and moisture in the lungs and on the eyes. Hydrofluoric acid is highly corrosive and can cause chemical burns and blindness and, in addition, is a powerful contact poison that is readily absorbed through the skin, eyes, and lungs and can cause cardiac arrest. Hydrogen chloride forms hydrochloric acid upon contact with water, including water vapor in the air and moisture in the lungs and on the eyes. Hydrochloric acid is corrosive and can cause chemical burns on the skin, respiratory tract, and eyes, and in severe cases can cause permanent eye damage and death; and
 - (5) If off-gas accumulates within a space, there is a high risk of instantaneous ignition. The pressure from the resulting deflagration can rupture the structure;
- L. In the event of a thermal runaway, other battery failure, or a conventional fire that spreads to the

batteries, the foregoing constitute a serious danger to first responders, passers-by, and persons on nearby properties. They also constitute a serious environmental hazard;

- M. Due to the foregoing risks, this Section contains regulations requiring passive and active fire protection, explosion prevention, and other measures to mitigate the serious risks inherent to battery energy storage systems. However, no policy, procedure, or measure can provide complete safety or an absolute guarantee against a catastrophic event. Accordingly, strict rules and regulations regarding the construction, operation, and placement of battery energy storage systems are appropriate; and
- N. When considering the construction and maintenance of large-scale systems, appropriate weight and consideration must be given to numerous factors, including but not limited to the following:
 - (1) The proximity of the proposed system to residential areas, schools, environmental resources including but not limited to wetlands, rivers, lakes, streams, creeks, areas of underground geologic instability (e.g., Tully Valley karst topography), proximity to landslide areas, and swamps;
 - (2) The relative distress and disruption caused to the community;
 - (3) The actual necessity for such facility given energy production in the area and region, including but not limited to clean energy production;
 - (4) Past and present stresses and disruption imposed upon an area due to all types of energy production;
 - (5) Alternatives to the proposed facility, including location in other areas, location in areas where demand is greater; and
 - (6) The need to balance the burden upon the community with the potential benefits that the community may enjoy if the facility is approved.

C. DEFINITIONS.

A. ANSI: American National Standards Institute.

B. APPLICANT(S): Entity or entities applying for authorization to construct and/or operate pursuant to this Section.

C. 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 Section, batteries utilized in consumer products are excluded from these requirements.

D. BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic supervisory 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. One of the main functions of the BMS is to keep the cells operating within their designed operating parameters to prevent thermal runaway.

E. BATTERY ENERGY STORAGE SYSTEM: A collection of cells, assembled together, housed in a self-contained

unit, or in a building that is constructed to meet specific standards related to industry and local fire codes, that is capable of storing energy in order to supply electrical energy to a building, a group of buildings, and/or the electrical grid at a future time. A battery energy storage system is classified as a Tier 1, Tier 2, or Tier 3 battery energy storage system as follows:

(1) TIER 1 battery energy storage systems include either:

(a) Battery energy storage systems serving one- and two-family dwellings, and/or their accessory structures (shall not apply to any commercial, industrial, institutional, assembly, governmental, agricultural, mixed-use, or multi-family (greater than 2) occupancy, regardless of energy capacity). Tier 1 systems, whether located within a structure or outdoors, shall have an aggregate energy capacity that does not exceed the applicable limits set forth in **Table 1**. The total aggregate capacity of a Tier 1 system shall not exceed 280 kWh (0.28 MWh).

TABLE 1: Tier-1 Sizing and Capacity Thresholds Table ESS kWh Limits (2026)	
Indoor floors or walls- utility closet / storage	40 kWh
Indoor floors or walls- basement	40 kWh
Outdoor- Attached or detached garage	80 kWh
Outdoors- wall-mounted	80 kWh
Outdoors- ground-mounted	80 kWh
Total maximum for entire lot (all indoor and outdoor locations combined)	280 kWh

OR

(b) Battery energy storage systems for one- to two-family residential dwellings or within or outside the structure with an aggregate energy capacity that shall be equal to or less than those in **Table 2**.

[Insert Table 2 here]

(2) Tier 2 battery energy storage systems include either:

(a) Battery energy storage systems that are not included in Tier 1, have an aggregate energy capacity the same for Lithium-ion batteries but less than the threshold capacity listed in Table 1 for the remaining batteries, and have an aggregate energy capacity greater than 280 kWh and less than 6 MWh (6000 kWh).

Tier 2 systems may include battery energy storage systems employing more than one battery technology within a single room or indoor fire area, provided the installation is designed and permitted based on the most hazardous chemistry present and approved by the Town or any state agency having concurrent or preemptive jurisdiction under the New York State Uniform Fire Prevention and Building Code or the Public Service Law, each acting within their respective statutory authority.

Tier 2 systems include intermediate on-site energy storage systems typically associated with supermarkets, office buildings, condominium communities, fire stations, municipal buildings, schools, small hospitals, mid-range data centers, treatment plants, fleet hubs, solar sites, campus microgrids, or other small field grids.

OR

(b) Battery energy storage systems with an aggregate energy capacity less than or equal to the threshold capacity listed in Table 3. If any BESS whose total installed nameplate energy (not state of charge), within a room or fire area, does not exceed the Tier 2 kWh limits listed in Table 2, it is regulated as a Tier 2 system and must meet the Tier 2 fire-code requirements, rather than the Tier 3 requirements.

[Insert Table 3 here]

(3) TIER 3 battery energy storage systems include either:

(a) Battery energy storage systems with an aggregate energy capacity greater than or equal to 6 MWh (6,000 kWh) or greater;

(b) Battery energy storage systems with one or more battery storage technologies which shall be regulated based on the most hazardous technology present and the total aggregate energy capacity;

OR

(c) Battery energy storage systems that present a regional-scale hazard and are designed for, but not limited to, primary grid-supply, merchant energy export, or large utility-scale operations. Other Tier 3 facilities include, but are not limited to, large medical complexes, micro-chip centers, large universities, airport terminals, pharmaceutical manufacturing companies, solar farms (10–50 MW class), and large emergency operations centers.

Table 2: Tier 1 Battery Energy Thresholds Quantities		Code Applies At (per fire area /room
Lithium-ion (all Li-ion variants)		20 kWh (>20 makes site Tier 2 or 3)
Lithium-iron-phosphate (LFP / LiFePO ₄)		20 kWh (>20 makes site Tier 2 or 3)
Lithium-titanate (LTO)		20 kWh (>20 makes site Tier 2 or 3)
Lithium-nickel-manganese-cobalt (NMC)		20 kWh (>20 makes site Tier 2 or 3)
Lithium-nickel-cobalt-aluminum (NCA)		20 kWh (>20 makes site Tier 2 or 3)
Sodium-ion		20 kWh (>20 makes site Tier 2 or 3)
Flow batteries (vanadium, zinc-bromine, chromium, etc.)	iron-	20 kWh (>20 makes site Tier 2 or 3)
Lead-acid (Flooded)		80 kWh
Lead-acid (VRLA / AGM / Gel)		80 kWh
Nickel-cadmium (Ni-Cd)		80 kWh
Nickel-zinc (Ni-Zn)		80 kWh
Nickel-metal hydride (Ni-MH)		80 kWh
Sodium-sulfur (NaS)		80 kWh (<i>usually prohibited indoors regardless</i>)
Sodium-nickel-chloride (Zebra)		80 kWh
Other / experimental chemistries		10 kWh (default conservative trigger)

APPENDIX (TABLES)

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Table 3: Tier 2 Battery Energy Thresholds Quantities (2026) (Fire Code Applicability Triggers, Nameplate kWh)

Table 3: Battery Chemistry	Code Applies At (per fire area /room
Lithium-ion (all Li-ion variants)	20 kWh
Lithium-iron-phosphate (LFP / LiFePO ₄)	20 kWh
Lithium-titanate (LTO)	20 kWh

Lithium-nickel-manganese-cobalt (NMC)	20 kWh
Lithium-nickel-cobalt-aluminum (NCA)	20 kWh
Sodium-ion	20 kWh
Flow batteries (vanadium, zinc-bromine, chromium, etc.)	iron- 20 kWh
Lead-acid (Flooded)	70 kWh
Lead-acid (VRLA / AGM / Gel)	70 kWh
Nickel-cadmium (Ni-Cd)	70 kWh
Nickel-zinc (Ni-Zn)	70 kWh
Nickel-metal hydride (Ni-MH)	70 kWh
Sodium-sulfur (NaS)	70 kWh (<i>usually prohibited indoors regardless</i>)
Sodium-nickel-chloride (Zebra)	70 kWh
Other / experimental chemistries	10 kWh (default conservative trigger)

F. CELL: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

G. CODE ENFORCEMENT OFFICER: The Code Enforcement Officer of the Town of LaFayette.

H. COMBUSTIBLE STORAGE FACILITY: Any facility dedicated to the large-scale storage of gasoline, propane, natural gas, fuel oil, or similar products stored in permanent and stationary storage.

I. 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.

J. CORRELATED COLOR TEMPERATURE: The specification of the color appearance of the light emitted by a lamp, relating its color to the color of light from a reference source when heated to a particular temperature, measured in degrees Kelvin (K).

K. CRITICAL TRANSPORTATION INFRASTRUCTURE: Roadways or railways that, if closed, isolate residents, seasonal dwellings, or camping sites from egress from the region.

L. DEDICATED-USE BUILDING: A building that is built for the primary purpose of housing battery energy storage system equipment and is classified as Group F-1 occupancy as defined in the International Building Code. It is constructed in accordance with the Uniform Code, and it complies with the following:

- (1) The building's only permitted primary use is for battery energy storage, energy generation, and other electrical-grid-related operations;

(2) 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;

(3) No other occupancy types are permitted in the building; and

(4) Administrative and support personnel are permitted in incidental-use areas within the buildings that do not contain battery energy storage system, provided the following:

a. The areas do not occupy more than 10% of the building area of the story in which they are located; and

b. Two means of egress are provided from the incidental-use areas to a public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy systems.

M. DISASTER RESPONSE FACILITY: Any building or structure that serves a disaster response role for the community, including, but not limited to, schools, hospitals, police stations, fire stations, public libraries, animal or human detention or shelter facilities, and garages or marina berths (and the berthing access pathways) providing dedicated storage of emergency response equipment.

N. DWELLING UNIT: One or more rooms arranged for complete, independent housekeeping purposes with space for eating, living, and sleeping, facilities for cooking, and provisions for sanitation.

O. 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.

P. 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.

Q. FLOW BATTERY: A type of rechargeable battery that uses typically large, separated liquid reservoirs of electrolytes that flow through a reaction zone to store, charge, and discharge energy. These electrolytes are typically nonflammable.

R. INSTALLED HEIGHT: The height above average finished grade of the lowest point on an installed luminaire.

S. KELVIN: A unit increment of temperature which is used as a color temperature scale of a light bulb. The symbol for Kelvin is "K."

T. LEAD-ACID BATTERY: A rechargeable battery that is comprised of lead electrodes immersed in sulfuric acid electrolyte. These batteries may be flooded, vented, sealed, or may come in other form factors. They may produce hazardous gases during normal operations.

U. LITHIUM-ION BATTERY: A storage battery with lithium ions serving as the charge carriers of the battery. The electrolyte is typically a mixture of organic solvents with an inorganic salt and can be in a liquid or a gelled polymer form.

V. LUMENS PER NET ACRE: The total number of lumens produced by all lamps utilized in outdoor lighting on a property divided by the number of acres, or part of an acre, of the property to be illuminated. For the

purpose of this calculation, the initial lumen rating declared by the manufacturer, which consists of the lumen rating of a lamp at the end of 100 hours of operation, shall be used.

W. LUMINAIRE: An individual lighting assembly, including the lamp and any housings, reflectors, globes, lenses, shields, or other components designed to block or distribute light. For the purposes of this Section, an internally illuminated sign is not considered a luminaire.

X. MODULE: A combination of multiple battery cells electrically connected and housed within a protective casing.

Y. 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.

Z. NEC: National Electric Code.

AA. NFPA: National Fire Protection Association.

BB. NICKEL-BASED BATTERY: A rechargeable battery in which the positive active material is nickel oxide, the negative contains either cadmium (Nickel-cadmium, Ni-Cd), hydrogen ions stored in a metal-hydride structure (Nickel-metal hydride, Ni-MH), or zinc (Nickel-zinc, Ni-Zn) as the electrode and the electrolyte is potassium hydroxide.

CC. NON-DEDICATED-USE BUILDING: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements, including all other occupancy types such as, but not limited to, commercial, industrial, offices, and multifamily housing.

DD. NONPARTICIPATING PROPERTY: Any property that is not a participating property.

EE. 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, day-care facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

FF. ONE- TO TWO-FAMILY DWELLING: A building that contains not more than two dwelling units with independent cooking and bathroom facilities.

GG. OPERATOR: The individual or entity approved to operate a battery energy storage system pursuant to this Section.

HH. 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.

II. SECURITY: The financial requirements associated with decommissioning.

JJ. SPECIAL FLOOD HAZARD AREA: The land area covered by the floodwaters of the base flood is the special flood hazard area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

KK. THERMAL RUNAWAY: A condition whereby individual battery cells enter an uncontrollable, self-heating state in which heat is generated at a higher rate than it can be dissipated. Thermal runaway events can result in ejection of shrapnel, particulates, and/or toxic/flammable gas, as well as extremely high temperatures, smoke, and fire. Fires caused by thermal runaway or the thermal runaway itself can heat adjacent cells to critical temperatures, resulting in a cascading thermal runaway.

LL. TOWN: The Town of LaFayette.

MM. TOWN BOARD: The Town of LaFayette Town Board.

NN. TOWN JOINT PLANNING BOARD: The Town of LaFayette Joint Planning Board.

OO. 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.

D. APPLICABILITY.

- A. The requirements of this Section shall apply to all Battery Energy Storage Systems permitted, installed, or modified in the Town after the effective date of this Section, excluding general maintenance and repair, but including all battery energy storage systems for which an application of any type was pending as of the effective date of Local Law Number 4 of the Year 2024.
- B. Battery energy storage systems constructed or installed prior to the effective date of this Section shall not be required to meet the requirements of this Section.
- C. Modifications to, retrofits, or replacements of a battery energy storage system constructed or installed prior to the effective date of this Section that increase the total battery energy storage system designed discharge duration, storage capacity, or power rating shall be subject to this Section.

E. GENERAL REQUIREMENTS.

- A. A building permit and battery energy storage system permit (as established by the Town Board) shall be required for installation of all battery energy storage systems.
- B. Issuance of permits and approvals by the Town Board and/or Town Joint Planning Board shall include review pursuant to Article 8 of the Environmental Conservation Law and its implementing regulations at 6 NYCRR 617, also known as the State Environmental Quality Review Act or SEQRA.
- C. Prior to operation, electrical connections must be inspected by an appropriate licensed electrical inspection person or agency, as determined by the Town. An electrical inspector must supply written verification that all electrical connections pass inspection.
- D. All battery energy storage systems, all dedicated use buildings, and 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 shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town Code.

- E. All battery energy storage systems, regardless of tier, are subject to a battery energy storage system permit and fee. Such fees shall be established by the Town Board and may be changed from time to time by resolution.
- F. Where a conflict exists between two or more codes, the more stringent code(s) shall apply.
- G. For battery energy storage systems subject to site plan review, the Town shall impose, and may update as appropriate, a schedule of fees or a deposit, to recover expenses associated with engineering, environmental, other professional services, and/or legal services determined to be reasonably necessary in the processing of an application under this law. All fees for outside professionals shall be paid by the Applicant.
- H. All approved sites and buildings shall be demarcated with a weatherproof decal, sticker, or sign to uniformly identify the presence of a battery energy storage system. Such decal, sticker, or sign shall be consistent with the requirements of Uniform Code Section 1206.11.8, and shall be placed on the electric meter, on the main electrical switch panel, and by the front entry door.
- I. Nothing listed herein shall be deemed to restrict the Town Joint Planning Board or Town Board, as appropriate, from requiring stricter standards for safety, the mitigation of environmental impacts, and/or to protect the character of existing neighborhoods.

F. PERMITTING REQUIREMENTS FOR TIER 1 BATTERY ENERGY STORAGE SYSTEMS.

Tier 1 battery energy storage systems are permitted in all zoning districts, are subject to a battery energy storage system permit, and are exempt from site plan review.

G. PERMITTING REQUIREMENTS FOR TIER 2 BATTERY ENERGY STORAGE SYSTEMS.

Tier 2 battery energy storage systems shall be permitted in the Industrial zoning district only, are subject to a battery energy storage system permit, and are subject to site plan review.

H. PERMITTING REQUIREMENTS AND PROCEDURES FOR TIER 3 BATTERY ENERGY STORAGE SYSTEMS.

Tier 3 battery energy storage systems shall be permitted in Industrial zoning district only, are subject to a battery energy storage system permit, are subject to site plan review, and require a special use permit issued by the Town Board.

- A. Applications for the installation of Tier 3 battery energy storage system shall be:
 - (1) Reviewed by the Code Enforcement Officer for completeness. An application shall be complete when it addresses all matters listed in this Section, including, but not necessarily limited to compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and matters relating to the proposed battery energy storage system and floodplain utility lines and electrical circuitry, signage, lighting, vegetation and tree-cutting, noise, decommissioning, site plan and development, special use and development, ownership changes, safety, permit time frame, and abandonment. Applicants shall be advised within 45 calendar days of the completeness of their application or any deficiencies that must be addressed prior to substantive review;
 - (2) Subject to a public hearing to hear all comments for and against the application. The Town Board

shall have a notice printed in a newspaper of general circulation in the Town at least 10 days in advance of such hearing. Applicants shall have delivered the notice by first-class mail to adjoining landowners or landowners within 1,000 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Town Board at the public hearing;

(3) Referred to the Onondaga County Planning Department pursuant to General Municipal Law and the Town Joint Planning Board for site plan review and advisory report.

B. Upon closing of the public hearing, the Town Board shall take action on the application within 62 days of the public hearing, which can include approval, conditional approval, or denial. The 62-day period may be extended upon consent of the Town Board and Applicant.

C. Underground requirements. 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 rights-of-way.

D. Vehicular paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

E. Signage.

(1) Pursuant to NFPA 855 Annex B, Section B.4 – Hazard Considerations Under Emergency/Abnormal Conditions, NFPA 704 placarding in connection with all battery energy storage systems and signage in compliance with ANSI Z535 shall be of an appropriate size and material and shall be placed outside the access gate or facility door. Such placard shall also include the following:

a. The type of battery technology;

b. Any special hazards associated with said technology;

c. The type of fire-suppression system installed in the area of the battery energy storage systems; and

d. Twenty-four-hour emergency contact information (name/number), including applicable local, public, and private entities.

(2) As required by the National Electric Code (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.

F. Lighting.

(1) Except as otherwise provided herein, all outdoor lighting at Tier 3 battery energy storage system sites shall be designed, installed, and operated in such a manner as to reduce light pollution. Where practicable, and if consistent with applicable law, reflective paints and self-luminous markers shall be used for signs, curbs, steps, and other locations to reduce the need for permanently installed outdoor lighting.

(2) Luminaires:

- a. All outdoor luminaires shall be fully shielded and installed in the proper orientation to achieve fully shielded performance with respect to the horizontal plane.
 - b. The installed height of an outdoor luminaire shall not exceed twenty-five (25) feet.
 - c. All light sources shall have a correlated color temperature of 3,000° Kelvin or less.
 - d. Upward-directed lighting is prohibited.
 - e. All outdoor luminaires shall be controlled by a system that automatically extinguishes them when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch, or equivalent functions from a programable lighting controller, building automation system, or lighting energy management system.
- (3) The total light output from all luminaires used for outdoor lighting shall not exceed 100,000 lumens per net acre. Lighting installations located under canopies shall contribute 50% of their light output toward this limit.
- (4) Exemptions. The following are exempt from the lighting restrictions set forth herein:
- a. Lighting required by Town, county, state, or federal law, including single-purpose emergency egress lighting on a structure;
 - b. Portable lighting temporarily used for maintenance or repair, provided that it does not create a hazard or nuisance and is deployed in such a manner as to minimize transmission of light offsite;
 - c. Upward-directed lighting to illuminate a flag. Flag illumination shall have a maximum inclination of 45° with a light output of up to 1,100 lumens and 60° with a light output of up to 800 lumens;
 - d. Upward-directed lighting to illuminate a ground-mounted, non-internally illuminated sign. Sign illumination shall have a maximum inclination of 45° and a maximum light output is 1,100 lumens;
 - e. Lighting controlled a motion-activated sensor that illuminates the luminaire for no more than five (5) minutes upon activation, provided that said luminaire has the necessary shielding and/or beam-angle control such that the light source is not visible along any property line, as viewed at a height of 36 inches above grade;
 - f. Lighting activated automatically in response to an alarm, provided that said lighting is programmed to deactivate no more than thirty (30) minutes after the event that triggered the alarm has ended; and
 - g. Lighting under canopies and garage entrances are exempt from the automatic lighting control requirement only.
- G. Vegetation and tree cutting. In recognition of forest-fire risk in the hills of LaFayette, a 50-foot Vegetation Management Zone (VMZ) shall be maintained around all BESS equipment for Tiers 2 and 3.

Too many places are now experiencing forest fires with entire communities being destroyed. While it might be politically correct to remove the least amount of nature's plants and trees, never-the-less, when calculating the amount removed vs. the potential that could be destroyed by a forest fire, the calculation favors extra tree and vegetation removal. Furthermore, the following shall occur:

(1) All grasses, brush, and fuels removed.

(2) Trees trimmed 10 ft above ground.

(3) No ladder fuels permitted.

(4) No combustible storage permitted.

(5) Ember Intrusion Protection for BESS vents, intakes, and louvers shall include ember-resistant screens rated for wildland fire exposure.

(6) Other combustible growth such as 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 embers or flames. The actual amount removed will depend on many factors, such as slope, elevation, and nearby natural water supplies.

H. Flood protection standards. Care should be taken not to site the facility in a potential flood zone- even in 100 year flood plains. With increased precipitation from climate change, towns must take a closer look at the flooding probabilities in certain areas. Many of the "Flood Plain classifications" are being changed. New standards, such as the [ASCE 24-24 update](#), are expanding flood hazard areas to include the 500-year floodplain as a new minimum standard in some cases ("ASCE/SEI 7-22 Supplement 2 in May 2023"). This supplement updated the flood hazard area from the 100-year flood plain to the 500-year flood plain for Risk Categories II, III, and IV structures to increase building resilience against severe flooding, according to the [American Society of Civil Engineers \(ASCE\)](#) and [Engineering News-Record \(ENR\)](#). For the above reasons BESS installations shall not be permitted in:

(1) FEMA Flood Zone A

(2) FEMA Floodway

(3) DEC-designated flood hazard areas, unless the Applicant demonstrates:

a. Finished floor elevation at least 2 ft above the 100-year flood elevation.

b. Berms, drainage swales, and emergency shut-off valves preventing floodwater intrusion.

c. All electrical components installed above the flood elevation.

I. Noise. The noise generated from battery energy storage systems, components, and associated ancillary equipment shall not exceed the levels set forth in, and shall be subject to the requirements of, Chapter 194 of this Code. Applicants may submit equipment and component manufacturers' noise ratings to demonstrate initial compliance only if in situ readings are also provided as taken by a qualified acoustical consultant or engineer upon commissioning of the project. Applicants may submit equipment and component manufacturer's 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.

- J. Soil Removal. All topsoil disturbed during construction, reconstruction, and/or modification of a battery energy storage system shall be stockpiled and returned to the site upon completion of the activity that disturbed the soil.
- K. Wind, Tornado, and Severe Weather Protection. Because LaFayette is located in NY Wind Zone 1 and 2 with documented microbursts:

- (1) Structural Wind-Load Requirements. All BESS structures shall be designed to withstand:

- a. 115 mph minimum basic wind speed, AND
 - b. 130 mph tornado / microburst gust rating, or
 - c. Site-specific wind-pressure modeling demonstrating equivalency.

- (2) Anchor and Foundation Requirements

- a. Ballistic-rated anchoring or reinforced concrete pads.
 - b. Uplift protection per ASCE 7-22.
 - c. Lateral load resistance appropriate for extreme wind events.

- (3) Post-Storm Inspection. A full inspection by the owner/operator and Fire Chief is required:

- a. After winds exceeding 60 mph,
 - b. After tornado warnings,
 - c. After any damage observed on site.

- L. Decommissioning.

- (1) A complete Decommissioning Plan shall be submitted with the initial BESS application and shall be included as an enforceable permit condition. The plan shall include:

- A. Full description of all equipment to be removed, including:

- 1) battery modules and racks
 - 2) inverters
 - 3) switchgear
 - 4) transformers
 - 5) HVAC/cooling systems
 - 6) containers/enclosures
 - 7) fire suppression systems
 - 8) fencing and security infrastructure
 - 9) foundations and pads
 - 10) underground conduits, and
 - 11) monitoring wells (unless retained for environmental verification)

B. Procedures for handling lithium-ion equipment, demonstrating compliance with:

- 1) NYSDEC hazardous waste regulations
- 2) DOT hazardous materials transport rules
- 3) NFPA 855 decommissioning safety procedures, and
- 4) any manufacturer-specific dismantling guidance

C. Identification of disposal or recycling facilities, including:

- 1) licensed lithium-ion battery recycling centers
- 2) approved hazardous waste transfer stations, and
- 3) metal, electronic, and structural recycling vendors

D. Environmental Restoration Plan, detailing:

- 1) Full removal of above-ground and below-ground equipment
- 2) removal of all concrete pads, unless waived
- 3) restoration of topsoil, vegetation, and site grades
- 4) reestablishment of natural drainage patterns, and
- 5) stabilization of disturbed areas

E. Post-Removal Environmental Testing, including:

- 1) soil sampling for lithium, fluoride, VOCs, PFAS, and metals
- 2) groundwater sampling in all monitoring wells
- 3) documentation of test results, and
- 4) remediation plan if contaminants exceed regulatory limits

F. Schedule for Completion, which must:

- 1) begin within 60 days of cessation of operation, and
- 2) be completed within 180 days, unless extended by the Town Board

(2) Triggering Events for Decommissioning

Decommissioning shall be required upon any of the following:

A. End of Useful Life - When the operator declares in writing that the system will no longer operate.

B. Abandonment

- 1) A BESS facility shall be considered abandoned if it fails to operate for twelve (12) consecutive months.
- 2) The Town may shorten this to six (6) months if public safety risks are identified.

C. Permit Revocation - If the Town revokes the Special Use Permit for violations threatening safety, the operator must decommission the system.

(3) Removal Requirements

Once decommissioning is triggered, the operator must:

A. Remove all equipment, including all battery modules and hazardous components.

B. Drain and remove fire suppression agents, coolant fluids, or transformers containing hazardous materials.

C. Remove all foundations, supports, wiring, conduits, and underground lines to a minimum depth of 48 inches, unless waived.

- D. Remove all contaminated soils, to the satisfaction of NYSDEC and the Town Engineer.
- E. Transport hazardous materials in compliance with all applicable DT and NYSDEC rules, and
- F. Restore the site, including:
 - 1) regrading
 - 2) replacing topsoil
 - 3) revegetation using native species
 - 4) stabilization against erosion
 - 5) removal of temporary access roads unless desired by property owner

(4) Environmental Verification and Testing
After physical removal, the operator must:

A. Conduct soil testing for:

- 1) lithium
- 2) fluoride
- 3) PFAS
- 4) VOCs
- 5) semi-volatiles, and
- 6) RCRA 8 heavy metals

B. Conduct groundwater testing in all monitoring wells using:

- 1) EPA-approved analytical methods, and
- 2) laboratory chain-of-custody results

C. Submit a Final Environmental Report to the Town including:

- 1) maps of sampling locations
- 2) laboratory results
- 3) list of contaminants detected
- 4) comparison to NYSDEC regulatory thresholds, and
- 5) description of any required remediation

D. If contamination is detected above regulatory levels:

- 1) the operator must perform remediation
- 2) the security will not be released until cleanup is certified, and
- 3) additional wells may be required

(5) Security, limited access agreement, assessment of expenses, and insurance.

- a. The Town of LaFayette recognizes the importance of the need to possess adequate security in an easily convertible and usable form in the event the Town is forced to act to decommission the arrays and remediate a property if a permitted operation is abandoned. LaFayette also recognizes the long-term nature of some of these projects and the need to have a full cash security posting before the life of the project expiration date. Accordingly, the Town of LaFayette will require the posting of a cash component of no less than 50% of the total security amount determined, in addition to the initial posting of an irrevocable letter of credit. The Town shall require all Applicants to post

additional cash with corresponding decreases in the letter of credit posting throughout the term of the project life until the Town has a full cash security posting. The deposit, executions, or filing with the Town Bookkeeper of cash and/or irrevocable letter of credit shall be in an amount set by the Town Engineer or Attorney, and sufficient to ensure the good-faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. In addition to the NYSERDA guidelines, the security amount shall factor in: mobilization costs, a minimum 2.5% escalation, a 30% contingency and consideration that prevailing wage rates will be required should the decommissioning fall to the Town.

- b. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash and/or letter of credit security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit and/or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed. The Town may also bring legal action against the Applicant for any unrecovered losses.
- c. In the event of default or abandonment of the battery energy storage system, the system shall be decommissioned as set forth herein.
- d. Any expenses or losses incurred by the Town and not reimbursed by any security in connection with the cost of removal of abandoned equipment or other related item and legal fees and expenses shall be levied and collected in the same manner as provided in the Town Law for the levy and collection of a special ad valorem levy on the real property on which the battery energy storage system is located. This assessment shall be assessed on the next assessment against said property, and the same shall be levied and collected in the same manner as the regular Town tax.
- e. Insurance. The Applicant and/or owner shall maintain a current insurance policy which will cover the installation and operation of the Tier 3 project at all times in the minimum amount of \$10,000,000 property and personal liability coverage and provide proof of such policy to the Town on an annual basis.
- f. Limited site access agreement. The Town of LaFayette shall require all Applicants to enter into a limited site access agreement upon the posting of security to ensure the Town may access the property in the event the Town is forced to act to decommission the project. The agreement shall be prepared by the Town Attorney in a form and content acceptable to the Town Board.
- g. The security shall be:
 - 1) reviewed every three (3) years
 - 2) adjusted for inflation and market changes, and
 - 3) held by the Town, not by the Applicant

(6) Failure to Decommission

If the operator fails to decommission the facility:

A. The Town may draw upon the security to:

- 1) hire contractors
- 2) perform removal
- 3) conduct environmental testing, and
- 4) perform remediation

B. Any additional costs beyond the security amount shall be:

- 1) charged to the property owner and facility operator
- 2) recoverable through legal action, and/or
- 3) added as a lien to the property tax bill

(7) Recordkeeping and Documentation

All decommissioning documentation must be:

- A. submitted to the Town Clerk,
- B. reviewed by the Town Engineer,
- C. stored permanently in the Town's digital archives, and
- D. recorded in the Onondaga County Clerk's office.

(8) Right of Entry

The Town, its engineers, and emergency responders shall be granted full site access during decommissioning for:

- A. inspection,
- B. monitoring,
- C. verification sampling, and
- D. safety oversight.

M. System Owner's Representative.

- a. Any Applicant and subsequent system owner shall have an individual on-site within one (1) hour of any emergency at any time to manage the emergency scene in conjunction with Town authorities, fire department(s), law enforcement, and other first responders. For the purposes of this provision, emergencies include but are not limited to fire, explosions, smoke, leakage (includes gas and chemical emissions), excessive noise, floods, violent intruders, Sabotage, and requests for medical assistance.
- b. Any Applicant and subsequent system owner shall have a trained representative available by telephone within fifteen (15) minutes to provide direction to first responders in case of an emergency. Said representative shall be fluent in the English language. The Applicant and system owner shall consult with local fire departments to determine if two-way communication can be established from the site location or if a landline must be added to provide for such communication.
- c. A system owner shall provide and maintain in working order a first responder panel that displays, in real-time, the operational status of the facility as well as clear language for fire response procedures. The system owner shall provide and keep operational a system for automated notification of any emergency events to inform local first responders.

N. Setbacks. All Tier 3 battery energy storage systems shall be set back at least 500 feet from all property lines.

- a. There shall be a clearance of a minimum of 750 feet from any occupied community building, disaster response facility, combustible storage facility, or other similarly sensitive location.
- b. There shall be a clearance of a minimum of 600 feet from any critical transportation infrastructure.

O. Roads.

- a. Applicants shall avoid damaging roads and shall be responsible for mitigation of damage, if any. If the Town Board shall so direct, a Town Roads Damage Avoidance and Mitigation Plan may be required and shall contain the following:
 - i. Identification of potential road usage. The Applicant shall identify, with the approval of the Highway Superintendent and Town Engineer, all state, county, and Town roads to be used within the Town of LaFayette to transport equipment, parts, and material for construction, operation, and/or maintenance of the battery energy storage system and related components.
 - ii. Documentation of road conditions. Prior to construction and decommissioning, the Highway Superintendent, Town Engineer, and/or their designee shall document the then-current road conditions of the Town roads identified for use, with all associated costs paid by the Applicant as provided in this Section. Conditions shall be reassessed and documented within thirty (30) days after the completion of construction and decommissioning, or as soon thereafter as weather permits.
- b. Any road preparation and/or maintenance necessitated or occasioned by the construction or decommissioning of the proposed battery energy storage system or damage caused by the Applicant, operator, and/or their contractors during construction and decommissioning shall be promptly completed or required, as appropriate, at the Applicant or operator's expense.
- c. If a Town Roads Damage Avoidance and Mitigation Plan is prepared, a copy shall be forwarded to the Onondaga County Department of Transportation and the New York State Department of Transportation.

I. SITE PLAN APPLICATION.

- A. Site plan approval is required for Tier 2 and Tier 3 battery energy storage systems. In addition to the requirements imposed by Section 37 of Chapter 290, site plan applications shall include the following information:
 - (1) Property lines and physical features, including roads, and all improvements for the project site as shown on a current survey prepared and certified by a licensed land surveyor;
 - (2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures;
 - (3) A one- or three-line (as determined by the Town Joint Planning Board) 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;

- (4) A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters, and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit;
- (5) Name, address, and contact information of the proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of a building permit;
- (6) 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;
- (7) Zoning district designation for the parcel(s) of land comprising the project site and those immediately adjacent thereto;
- (8) Commissioning plan.
 - a. 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. 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 Board prior to final inspection and approval and maintained at an approved on-site location.
 - b. Such plan shall comply with the Uniform Code and include, at a minimum, the following information:
 - i. A narrative description of the activities that will be accomplished during each phase of commissioning, including the personnel intended to accomplish each of the activities;
 - ii. A listing of the specific battery energy storage system and associated components, controls and safety-related devices to be tested, a description of the tests to be performed and the functions to be tested;
 - iii. Conditions under which all testing will be performed that are representative of the conditions during normal operation of the system;
 - iv. Documentation of the owner's project requirements and the basis of design necessary to understand the installation and operation of the battery energy storage system;
 - v. Verification that required equipment and systems are installed in accordance with the approved plans and specifications;
 - vi. Integrated testing for all fire and safety systems;

- vii. Testing for any required thermal management, ventilation, or exhaust systems associated with the battery energy storage system installation;
 - viii. Preparation and delivery of operation and maintenance documentation;
 - ix. Training of facility operating and maintenance staff;
 - x. Identification and documentation of the requirements for maintaining system performance to meet the original design intent during the operation phase; and
 - xi. Identification and documentation of personnel who are qualified to service, maintain, and decommission the battery energy storage system, and respond to incidents involving the battery energy storage system, including documentation that such service has been contracted for.
- c. Energy storage system commissioning shall not be required for lead-acid and nickel-cadmium battery systems at facilities under the exclusive control of communications utilities that comply with NFPA 76 and operate at less than 50 VAC and 60 VDC;
- (9) Fire safety compliance plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code;
- (10) System and property operation and maintenance manual.
- a. Such manual or 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.
 - b. The operation and maintenance manual shall be provided to both the battery energy storage system owner and their operator before the system is put into operation. The battery energy storage system shall be operated and maintained in accordance with the manual and a copy of the documentation shall be retained at an approved on-site location to be accessible to facility personnel, fire code officials, and emergency responders.
 - c. In addition to complying with the Uniform Code, the battery energy storage system operation and maintenance manual shall, at a minimum, include design, construction, installation, testing, and commissioning information associated with the battery energy storage system as initially approved after being commissioned, as well as the following information:
 - i. Manufacturer's operation manuals and maintenance manuals for the entire battery energy storage system or for each component of the system requiring maintenance, that clearly identify the required routine maintenance actions and frequency;
 - ii. The name, address, and telephone number of a service agency that has been contracted to service the battery energy storage system and its associated safety systems;
 - iii. Maintenance and calibration information, including wiring diagrams, control drawings, schematics, system programming instructions, and control sequence descriptions for all

energy storage control systems;

- iv. Desired or field-determined control set points that are permanently recorded on control drawings at control devices or, for digital control systems, in system programming instructions;
- v. A schedule for inspecting and recalibrating all battery energy storage system controls;
- vi. A service record log form that lists the schedule for all required servicing and maintenance actions and space for logging such actions that are completed over time and retained on site; and
- vii. Inspection and testing records;

(11) Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town Board. At a minimum, the plans shall include:

- i. Containment Requirements. The Applicant shall install:
 - 1) Impermeable containment basins or berms.
 - 2) Valved isolation systems.
 - 3) HAZMAT-rated surface storage if runoff must be pumped.
- ii. Stormwater Pollution. Prevention Plan (SWPPP). A SWPPP meeting NYSDEC GP-0-20-001 is required and must include:
 - 1) Thermal-event runoff pathways.
 - 2) Contingency for HF-contaminated water.
 - 3) Protection of nearby streams and wetlands.

(12) Emergency operations plan.

- a. An emergency operations plan shall include the following information:
 - i. 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 startup following cessation of emergency conditions;
 - ii. Procedures for inspection and testing of associated alarms, interlocks, and controls;
 - iii. 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, repair personnel, and providing agreed-upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure;

- iv. 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 at a minimum activation of an alarm, notification of a local fire department, evacuation of personnel, de-energization of equipment, control/extinguishing of the fire if appropriate; and evacuation of nearby residents or livestock when necessary.
- v. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required; copies of all applicable SDSs shall be provided to the Town Clerk and the LaFayette Fire Department by Applicant and updated at least annually.
- vi. 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;
- vii. Other procedures as determined necessary by the Town to provide for the safety of occupants and emergency responders;
- viii. 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;
- ix. A map of the area indicating emergency access roads with turning radii dimensions and a turn-around loop (include nearby buildings, waterways, wells, contour lines, transmission lines, natural gas lines, etc.); and
- x. A listing of the required personal protective equipment (including self-contained breathing apparatus) to be on-site immediately.

(13) In the case of a battery energy storage system utilizing lithium-ion batteries, a Hazard Mitigation Analysis (HMA) and Fire Risk Assessment pursuant to NFPA 855 Annex G and New York State Fire Code.

- a. Such analysis and assessment shall include, in addition to or supplemental to the requirements of NFPA 855 Annex G:
 - i. A detailed analysis of the available water supply for the fire suppression system and intended fire suppression system design. Capacity for a minimum of two external fire hose streams shall be included for potential fire department use **of** intervention is required by the local fire department, provided, however, that the required quantity of hose streams may be increased based on consultation with the local responsible and backup fire departments;
 - ii. Emergency equipment availability;
 - iii. Availability of operator supervision in a timely manner in accordance with the current New York State Fire Code (Uniform Code) as well as any requirements set forth herein;
 - iv. Capability and required actions of local first responders. Special concerns shall be

given to prior response data of the local fire departments and the Applicant, and the documentation shall be clear as to who has decision making power in an emergency. This shall be reinforced through the first responder panel;

- v. Environmental considerations in the event of an emergency; and
 - vi. A determination as to whether a backup natural gas or propane generator with a power output and runtime satisfactory to the Town Joint Planning Board shall be required sufficient to operate the cooling system and other critical components if the electric grid is not delivering power;
- b. The Hazard Mitigation Analysis shall be a “living document” which shall be reviewed annually and updated to reflect changes in operation, configuration, and response requirements, including a post-installation update to account for changes in design, if any, that occurred between its initial preparation and final installation;
- (14) A traffic safety circulation plan, taking into account general internal circulation, loading/truck movements, and similar factors. The plan shall identify appropriate impact protection including but not limited to traffic barriers, bollards, and walls; and
- (15) Any other procedure or measure deemed necessary by the Town Joint Planning Board to provide for the safety of occupants, neighboring properties, and first responders.
- B. The Town Joint Planning Board shall complete site plan review within 60 days from the receipt of all relevant and required documents from the Applicant and, for Tier 3 applications, forward its report with any recommendations to the Town Board unless the time is extended by the Town Board.
- C. Height. The maximum height for Tier 2 and Tier 3 battery energy storage systems shall be 15 feet.
- D. Fencing requirements. Tier 2 and Tier 3 battery energy storage systems, including all mechanical equipment, shall be enclosed by a fence at least eight (8) feet high with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building. Fences shall not interfere with ventilation or exhaust ports and shall bear warning/no trespassing signs in the English and Spanish languages no greater than fifty (50) feet apart.
- E. Screening and visibility. Tier 2 and Tier 3 battery energy storage systems shall have views minimized from adjacent properties to the extent reasonably practicable 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.
- F. Special and additional requirements for Tier 3 applications:
- (1) Plans and drawings of the proposed Tier 3 installation signed, marked and/or stamped by a professional engineer registered in New York State showing the proposed layout of the entire site along with a description of all components whether on-site or off-site, existing vegetation and proposed clearing and grading of all sites involved. The plans and development plan shall be drawn in sufficient detail and shall further describe:
- a. Property lines and physical dimensions of the proposed site, including contours at five-foot intervals;

- b. Location, approximate dimensions and types of all existing structure(s) and uses on the site;
 - c. Location and elevation of the proposed Tier 3 installation;
 - d. Location of all existing aboveground utility lines showing the connection of the system to the utility line within 1,200 linear feet of the site;
 - e. Where applicable, the location of all transmission facilities proposed for installation. All transmission lines and wiring associated with a Tier 3 project shall be buried underground and include necessary encasements in accordance with the National Electric Code and Town requirements. The Town Board may waive this requirement if sufficient engineering data is submitted by the Applicant demonstrating that underground transmission lines are not feasible or practical. The Applicant is required to show the locations of all proposed overhead electric utility/transmission lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the public utility company's requirements for interconnection. Any connection to the public utility grid must be inspected by the appropriate public utility;
 - f. Location of all structures proposed as part of the installation;
 - g. Documentation of access to the project site(s), including location of all access roads, gates, parking areas, and similar features;
 - h. A plan for clearing and/or grading of the site and a stormwater pollution prevention plan (SWPPP) for the site;
 - i. Documentation of utility notification, including an electric service order number; and
 - j. The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and be clearly visible.
- G. Prior to the issuance of the building permit or final approval by the Town Board, engineering documents must be signed and sealed by a New York State licensed professional engineer.

J. OWNERSHIP CHANGES.

If the owner or operator of a battery energy storage system changes or the owner of the property upon which a battery energy storage system is sited changes, the special use permit shall remain in effect for up to two years, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system or the property upon which a battery energy storage system is sited shall notify the Town of such change in ownership or operator 30 days in advance of the ownership change by certified mail to both the Town Clerk and Town Supervisor and addressed to the LaFayette Town Hall. The special use permit and all other local approvals for the battery energy storage system shall be void if a new owner or operator fails to provide written notification to the Town as set forth above. Reinstatement of a void special use permit shall be subject to the same review and approval processes for new applications under this Section.

K. SAFETY.

A. System certification.

- (1) Battery energy storage systems and equipment shall be listed by a nationally recognized testing laboratory to UL 9540 or CAN 9540 (standard for battery energy storage systems and equipment) with subcomponents meeting each of the following standards that are applicable based on the storage type (electrochemical, thermal, mechanical):
 - 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; and
 - 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) Lead-acid and nickel-cadmium battery systems installed in facilities under the exclusive control of communications utilities and operating at less than 50 VAC and 60 VDC in accordance with NFPA 76 are not required to be listed.

- B. 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 the Tier 3 battery energy storage system is located in an ambulance district, the local ambulance corps.
- C. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.
- D. Where deemed necessary by the Town Joint Planning Board in the case of a Tier 2 application or the Town Board in the case of a Tier 3 application, the Applicant shall ensure emergency access to the Facility Area for local first responders by installing an emergency lock box or similar device, in a location and of a type subject to approval by the Fire Chief of the volunteer fire department responsible for fire protection at the site.
- E. The system owner or operator shall notify local fire departments, the Onondaga County Department of Emergency Management, and the Town of LaFayette at least one (1) week prior to any scheduled maintenance or battery removal/installation.
- F. Security cameras shall be installed if required as part of the Hazard Mitigation Analysis or if recommended by the Onondaga County Sheriff's Department.

L. FIREFIGHTING WATER SUPPLY

A. Purpose

The purpose of this section is to ensure that any BESS facility located within the Town provides a reliable, continuous, and adequate firefighting water supply appropriate for rural fire districts that do not have hydrant networks, and that on-site systems support cooling, and containment efforts (not suppression) for lithium-ion battery thermal events. Thermal runaway cooling requires large and sustained water flow, and rural fire districts rely heavily on tanker-shuttle operations, making on-site storage mandatory.

(1) Minimum Water Storage Requirements

a. On-Site Storage Volume

Every Tier 3 BESS facility shall provide not less than 50,000 gallons of dedicated firefighting water storage located on the project site.

b. The Town Board may require additional or less storage based on:

- i. Total BESS megawatt-hour (MWh) capacity
- ii. Number of separate BESS enclosures
- iii. UL 9540A fire test data
- iv. Fire Chief recommendation based on rural water availability
- vi. Proximity to sensitive receptors (homes, schools, etc.)

c. Under no circumstances may a BESS facility rely solely on tanker trucks without on-site storage.

(2) Water System Design Requirements

a. Construction and Rating. The on-site water supply shall consist of:

- i. A buried or above ground steel or concrete-lined tank, or
- ii. A fire pond purposely built for drafting and maintained for fire service use.

b. All systems must be:

- i. Freeze-protected
- ii. Locked and secured
- iii. Accessible year-round

c. Dual Drafting Points

Each tank or pond must have two (2) dry hydrant drafting points, each capable of:

- i. Flowing 1,000 gallons per minute (GPM) minimum

- ii. Being used by multiple fire apparatus simultaneously, and
- iii. Remaining operable in all weather

d. Access Requirements.

Access pads at each hydrant must:

- i. Support 40-ton fire apparatus
- ii. Provide 360-degree apparatus turnaround, and
- iii. Maintain 20 feet of plowed travel width year-round

(3) Tanker Shuttle / Water Supply Operations

a. Tanker Shuttle Compatibility.

The site must be designed so that rural fire companies can perform tanker shuttle operations safely and efficiently. This includes:

- i. A minimum 100-foot hardstand for staging tankers
- ii. LDH (large diameter hose) compatibility
- iii. Designated dump-tank staging areas

(4) Required Flow Rate.

The Applicant must demonstrate the ability to sustain:

- a. Minimum 500 GPM cooling flow for all BESS enclosure types, or
- b. A higher GPM if required by UL 9540A testing for the proposed battery chemistry.
- c. If testing shows higher cooling requirements, that higher value becomes the minimum.

(5) Fire Flow Demonstration Requirement

a. Prior to permit issuance, the Applicant shall submit a Fire Flow Demonstration Study, certified by a professional engineer, showing:

- 1) Total storage capacity
- 2) Draft rate
- 3) Refill / recharge support plans
- 4) Ability to maintain required flow for a minimum of 90 minutes continuous operation, and
- 5) Contaminated runoff containment calculations

b. No building permit shall be issued until the Fire Chief reviews and approves this study.

(6) Contaminated Runoff Containment

a. Mandatory Containment Basin

The facility must provide:

- 1) A lined containment basin, or
- 2) A valved containment yard drainage system designed to prevent contaminated water from leaving the site.

b. Required Capacity

Containment must store 100% of projected runoff from:

- 1) A 90-minute cooling operation at mandated GPM
- 2) The largest anticipated rainfall event during an incident. The volume may be for "25-year, 24-hour" storm event (meaning a storm event of that intensity has a 4% chance of occurring in any given year) or a more extreme "100-year, 24-hour" storm. Data from sources like the NOAA Precipitation-Frequency Atlas 14 may serve as guide to develop a local regulation, and
- 3) An encapsulating suppressant as applicable for use in the very early stage of a lithium-ion fire generating from a single device or piece of equipment.

(7) Inspection, Testing & Maintenance

a. Annual Testing

The operator must, at minimum:

- 1) Flow-test every hydrant annually
- 2) Inspect valves, strainers, intakes, and pipes, and
- 3) Provide test results to the Fire Chief and Town Safety Officer

b. Quarterly Visual Inspection

The operator shall perform quarterly inspections to detect:

- 1) Freezing
- 2) Structural damage
- 3) Sediment buildup, and
- 4) Vegetation obstruction

(8) Dedicated Use

The water supply referenced in this section shall not be used for irrigation, industrial use, sprinklers, or domestic consumption. It is exclusively for fire protection.

(9) Emergency Repairs

If any component of the facility becomes nonfunctional, the facility must shut down until the Fire Chief certifies restoration of service.

(10) Financial Assurance

If required, the Town may require a Water System Performance Bond sufficient to:

- a. Maintain tanks or ponds
- b. Replace pumps or pipes
- c. Rebuild access roads, and/or
- d. Repair damage due to storms or freeze-thaw cycles

(11) Fire Chief Approval

No Special Use Permit may be issued until the Fire Chief signs a written determination that:

- a. On-site storage is adequate
- b. Drafting access is adequate
- c. Containment systems are adequate
- d. GPM cooling capability is adequate, and
- e. All access and water operations can be performed safely

The Fire Chief's determination shall be an enforceable permit condition.

- G. Compliance with the Uniform Code and applicable standards of NFPA 855 shall be certified annually to the Code Enforcement Officer.

M. ENVIRONMENTAL MONITORING

A. Purpose

The purpose of this section is to ensure that all Battery Energy Storage Systems (BESS) within the Town of LaFayette are monitored for potential releases of hazardous substances, including but not limited to lithium salts, fluorinated gases, volatile organic compounds (VOCs), metals, and fire-related

B. Monitoring

(1) Environmental monitoring is required to protect groundwater, surface water, soils, air quality, ecological resources, and public health.

(2) Required Environmental Monitoring Program. All Tier 3 BESS facilities shall establish, fund, operate, and maintain a continuous environmental monitoring program consisting of:

- a. Groundwater Monitoring Wells

- b. Surface Water and Runoff Monitoring
- c. Air Quality Monitoring (HF, VOCs, CO, LEL)
- d. Soil Sampling (baseline + post-incident), and
- e. Incident-Specific Monitoring and Reporting

(3) No Certificate of Compliance may be issued until the Town's consulting engineer and Town Safety Officer approve the monitoring plan.

C. Groundwater Monitoring Requirements

(1) Network. Each Tier 3 BESS facility shall install a minimum of three groundwater monitoring wells, consisting of:

- a. One (1) up-gradient well, and
- b. Two (2) down-gradient wells

(2) The Town may require additional wells based on:

- a. Slopes
- b. Karst/fracture conditions
- c. Proximity to wetlands, streams, lakes, or private wells, and/or

d. Historic contamination or salt-bed dissolution (Tully Valley risk factor). The Tully Valley risk is due to the compromised geologic valley conditions from unsealed or decaying old wells, interconnected pathways that breach natural protective layers that provide direct conduits for surface water and potential contaminants to reach deeper, freshwater aquifers, and continued wild brining that is expanding underground salt solution caverns in the Tully valley.

(3) Baseline Sampling. Two rounds of baseline groundwater sampling shall be performed:

- a. Round 1: ≥ 90 days prior to site disturbance
- b. Round 2: ≥ 30 days prior to site disturbance
- c. Baseline sampling must analyze for:
 - i. Lithium
 - ii Fluoride
 - iii. VOCs (EPA Method 8260 or equivalent)
 - iv. PFAS (EPA Method 1633 or equivalent)

- v. pH, conductivity, TDS
- vi. Total and dissolved metals, and
- vii. Sulfates, chlorides, and nitrate/nitrite

(4) Operational Sampling. After construction, groundwater sampling shall occur semi-annually. Results must be:

- a. Reported to the Town within 30 days of completion, and
- b. Reviewed by the Town Engineer and Safety Officer

(5) Exceedance Response. If sampling shows contaminant concentrations exceeding either baseline values, or NYSDEC Groundwater Standards (6 NYCRR Part 703), the operator must:

- a. Notify the Town within 24 hours
- b. Conduct confirmatory sampling within 7 days
- c. Submit a corrective action plan to the Town, and
- d. Provide bottled water to affected properties if drinking water wells are potentially impacted

D. Surface Water and Runoff Monitoring

(1) Contaminated Runoff Containment. All Tier 3 BESS facilities must include:

- a. Impermeable concrete pad(s)
- b. Berms or swales directing runoff to a containment structure
- c. Manual or automated shutoff valves, and
- d. Secondary containment compliant with NFPA 855 and Fire Code of NYS

(2) Post-Incident Runoff Sampling. Following a fire, thermal runaway, explosion, or major suppression event:

- a. All runoff water must be sampled and analyzed, and
- b. Water must be handled as hazardous waste, unless laboratory results prove otherwise

(3) Analyses shall include:

- a. Lithium
- b. Fluoride
- c. Metals

- d. PFAS
- e. VOCs, and
- f. pH

E. Air Quality Monitoring

(1) Incident-Based Monitoring. During any alarm, fire, or suspected thermal runaway, continuous real-time air quality monitoring of the following is required:

- a. Hydrogen Fluoride (HF)
- b. Volatile Organic Compounds (VOCs)
- c. Carbon Monoxide (CO), and
- d. Lower Explosive Limit (LEL) measurements

(2) Hydrogen Fluoride

Hydrogen Fluoride (HF) is an extremely toxic and corrosive gas produced during combustion or thermal decomposition of lithium-ion batteries. HF goes easily and quickly through the skin and into the tissues in the body. When it touches tissues in the body, it damages the cells and causes severe pain and burns. Breathing in hydrogen fluoride at high levels can cause death from an irregular heartbeat or from fluid buildup in the lungs. HF gas regulation requires:

- A. Continuous real-time air monitoring during any BESS fire or thermal event.
- B. Immediate establishment of downwind evacuation zones
- C. Full respiratory protection (SCBA) for emergency responders), and
- D. Immediate evacuation procedures, and

F. Soil Sampling Requirements

(1) Baseline Soil Sampling shall be performed before construction at:

- a. Locations surrounding the BESS pads
- b. Perimeter of containment, and
- c. Downwind deposition zones (based on prevailing winds)

(2) Post-Incident Sampling shall be mandatory after:

- a. Fire
- b. Thermal event
- c. Contaminated runoff release, or

d. Explosion or deflagration

(3) Soil samples shall be analyzed for:

a. Metals

b. Lithium

c. Fluoride

d. VOCs, and

e. Battery degradation byproducts

I. Incident Reporting Requirements

(1) Incident reporting is required in the event of:

a. Thermal runaway

b. Fire

c. Explosion

d. HF detection

e. Contamination exceedance

f. Structural failure

g. Sabotage or intrusion event, or

h. Flood/wildfire/wind hazard activation

(2) Incident reporting shall include:

a. Notify the Fire Department and Town Safety Officer within 30 minutes

b. Provide a written incident report to the Town within 24 hours

c. Conduct environmental sampling within 72 hours, and

d. Submit a full technical report within 14 days

H. Enforcement

(1) Failure to comply with environmental monitoring requirements constitutes:

a. A violation of this Section

b. Grounds for suspension or revocation of any permit, and/or

c. Basis for emergency shutdown authority

(2) Civil penalties may be levied up to:

a. \$1,000 per violation per day

b. Plus recovery of all Town costs (sampling, engineering, legal, Fire Department response, etc.)

N. ADDITIONAL ENVIRONMENTAL REGULATIONS.

A. Avoidance Areas. Battery energy storage systems shall not be located in the following areas:

(1) Flood Hazard Zones, unless compliance with FEMA regulations can be achieved without significant visual or safety impacts;

(2) Open space;

(3) On parcels containing prime agricultural soils, provided, however, that a Tier 1 system may be placed on a portion of the parcel not containing prime agricultural soils;

(4) Near historically and culturally significant resources, unless it can be demonstrated that an installation will not adversely affect the resource and is fully reversible;

(5) Areas of exceptional or unique social archaeological, recreational, or educational value;

(6) Designated conservation areas;

(7) Within 250 feet of any wetland in the case of a Tier 2 or 3 system or within 100 feet of any wetland in the case of a Tier 1 system;

(8) Areas adjacent to public, parklands, trails, or active recreation; or

(9) Any Critical Environmental Areas adopted pursuant to SEQRA and/or the habitats of endangered species.

B. If ethylene glycol is used as part of a liquid cooling system, a containment pan shall be installed underneath the facility as a supplemental secondary containment, together with an off-site disposal plan satisfactory to the Town Joint Planning Board.

C. In the event of a fire or explosion, all expenses related to cleanup and remediation shall be paid or reimbursed by the system owner or operator.

O. ENFORCEMENT

(1) Authority of the Town

The Code Enforcement Officer, Fire Chief, Town Engineer, and any person designated by the Town Board shall have the authority to:

A. Enter upon any property with an existing, proposed, or decommissioning BESS facility at reasonable times to conduct inspections, tests, or investigations related to:

- 1) Compliance with this Section,
- 2) Environmental monitoring,
- 3) Fire safety and water supply requirements,
- 4) Security and sabotage-prevention systems,
- 5) Emergency access and site safety conditions.

B. Issue notices of violation, stop-work orders, cease-and-desist orders, emergency shutdown orders, and requirements for corrective action, and/or

C. Impose civil penalties described below.

(2) Violations

A violation of this Section shall include, but not be limited to:

A. Failure to install, maintain, or repair:

- 1) Fire detection or suppression systems,
- 2) Emergency Response Plan (ERP) components,
- 3) Groundwater monitoring wells,
- 4) HF/VOC/air monitoring equipment,
- 5) Required water supply (minimum 50,000 gallons) or hydrants, or
- 6) Required fencing, surveillance, and intrusion detection systems.

B. Operating a BESS facility:

- 1) Without a valid Special Use Permit,
- 2) After a permit suspension or revocation,
- 3) In a manner inconsistent with Site Plan approval conditions, or
- 4) Without performing required inspections or submitting required reports.

C. Tampering with, disabling, bypassing, or modifying:

- 1) Safety interlocks,
- 2) Gas or air monitors,
- 3) Fire suppression systems,
- 4) Containment structures or valves, or
- 5) Security systems.

D. Failure to report any fire, explosion, thermal runaway, HF release, or security breach within one hour of detection to:

- 1) Local Fire Department,
- 2) Town Supervisor,
- 3) Town Safety Officer, and
- 4) Town Code Enforcement Officer

E. Failure to perform environmental monitoring, including:

- 1) Baseline groundwater sampling,
- 2) Required semiannual groundwater sampling,
- 3) Post-incident sampling,
- 4) Annual soil sampling, or
- 5) Required HF monitoring during emergency events.

F. Construction violations, including:

- 1) Construction without a permit,

- 2) Failure to construct according to approved plans, or
- 3) Failure to maintain erosion control, stormwater protection, or flood protection.

G. Security violations, including:

- 1) Failure to maintain sabotage-prevention measures,
- 2) Leaving access gates unlocked, or
- 3) Disabling high-resolution surveillance.

H. Failure to decommission the facility as required in this Section.

(3) Civil Penalties

A. Each violation constitutes a separate offense. Each day that the violation continues shall constitute a separate offense.

B. Penalties shall be assessed as follows:

- 1) First offense: Minimum \$500 and up to \$1,000 per day, per violation.
- 2) Second offense (within 12 months): Minimum \$1,000 and up to \$2,500 per day, per violation.
- 3) Third or subsequent offense: Minimum \$2,500 and up to \$5,000 per day, per violation.

(4) Emergency Shutdown Orders

The Town Supervisor, Town Safety Officer, Town Code Enforcement Officer, or Fire Chief may issue an Emergency Shutdown Order when:

- A. Conditions pose an immediate threat to public health, safety, or the environment;
- B. Fire detection or suppression systems are impaired;
- C. HF gas or other hazardous air contaminants are detected above safe thresholds;
- D. Required water supply is unavailable;
- E. Environmental monitoring equipment is nonfunctional during a high-risk period;
- F. Security failures expose the facility to sabotage or intrusion, or
- G. Restarting or re-energizing the facility without written Town approval is prohibited.

(5) Permit Suspension or Revocation

A. A BESS Special Use Permit may be suspended or revoked if:

- 1) Violations are persistent or uncorrected,
- 2) A major incident occurs and the operator fails to implement required mitigation,
- 3) The operator fails to maintain insurance, bonding, or emergency plans, or fraud occurred during the application process, or
- 4) There is failure to comply with environmental reporting requirements.

B. Revocation shall require a public hearing.

C. Suspension may occur immediately upon written notice in the interest of public safety.

(6) Cost Recovery

A. The operator shall reimburse the Town and Fire Department(s) for all actual costs related to:

- 1) Emergency response, including firefighting foam, HF protective equipment, additional SCBA cylinders, or specialized monitoring devices;
- 2) Testing, sampling, and environmental monitoring following any incident;
- 3) Cleanup of contaminated soil, water, or debris;
- 4) Overtime charges for firefighters, highway employees, or Town safety personnel, and/or
- 5) Engineering or third-party consulting costs.

B. Failure to reimburse within 30 days may result in:

- 1) A special assessment against the property,
- 2) Collection as a lien, and/or
- 3) Permit revocation.

(7) Injunctive Relief

The Town may seek a court injunction to compel compliance or prevent ongoing violations, including:

A. Preventing energization of a non-compliant facility,

B. Restricting access to unsafe portions of the site, or

C. Forcing environmental remediation.

(8) Non-Waiver

Failure of the Town to immediately enforce any portion of this Section shall not constitute a waiver of its right to enforce later.

P. SEVERABILITY.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Section, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional or in any way null and/or void, 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.

Q. WAIVER.

The Town Board may, under appropriate conditions or circumstances, and in its absolute discretion, waive one or more of the submission requirements contained herein.

R. FEES.

Fees for application are those as established by the Town of LaFayette by the resolution of the Town Board, and it shall be the responsibility of the Applicant to reimburse the Town for any and all reasonable and necessary legal, engineering, and other professional fees incurred by the Town in reviewing and administering an application for a battery energy storage system under this Section.