

LOCAL LAW NO. 1 OF 2024

A LOCAL LAW "Amendment to Southampton Town Code Chapter 314, Entitled, "Moratorium on Battery Energy Storage Systems" by Amending Section 314-4. Entitled, "Moratorium Period" to Extend the moratorium period for an additional six (6) months"

BE IT ENACTED by the Town Board of the Town of Southampton as follows:

SECTION 1. Legislative Intent.

As stated in Local Law No. 3 of 2021, which established a Battery Energy Storage Code for the Town of Southampton, the Town Board acknowledges that said systems play an important role in reducing demand and costs associated with grid infrastructure, add capacity while lessening the burden on existing infrastructure, and deter the use of fossil fuels putting the Town closer to its reduced emission goals as a Climate Smart Community. The Town Board remains dedicated to those goals; however, significant public health and safety concerns relative to the potentially volatile nature of lithium-ion batteries and battery storage operations have emerged, especially with regard to locating mega-watt scale facilities in close proximity to established residential areas. Indeed, as the result of several fires at Battery Energy Storage Facilities across the State have significantly raised concerns, and that of emergency and first responders, in their attempts to manage these occurrences and insure continued public safety. In fact, in response thereto in August of 2023 New York State Governor Kathy Hochul convened an Inter-Agency Fire Safety Working Group of representatives from the Division of Homeland Security and Emergency Services (DHSES) Office of Fire Prevention and Control (OFPC), New York State Energy Research and Development Authority (NYSERDA), New York State Department of Environmental Conservation (NYSDEC), the Department of Public Service (DPS) and the Department of State (DOS) who are tasked with analyzing data, assessing public vulnerability and making recommendations for safety training and equipment. While initial findings have been made available through a Press release issued in late December of 2023, final recommendations have not been made available and Root Cause Analysis reports are still underway for the impacted facilities.

The Town of Southampton during the initial moratorium period convened a meeting of Fire and Public Safety officials together with Land Management officials and representatives from PSEG, NYSEDA and LIPA; the Administrator met with the Chief Planner at the Suffolk County Planning to request planning assistance and regional support; met with representatives from the Town of Huntington to discuss the potential to create an inter-municipal working group to share resources and worked to retain a professional land use consultant to create a scope of work that can be utilized for planning more specific locations with stakeholders from the community that may be appropriate for a varied scale of facilities. As this work has just gotten underway, and the finalized recommendations have not been provided by the State and draft fire code revisions are not expected to be released until at least the second quarter of 2024, the Town of Southampton finds it prudent and within the public interest to extend the moratorium for an additional six (6) months to complete its planning study and begin the process to amend the land use regulations accordingly.

SECTION 2. Amendment.

§314-4. Moratorium Period.

This moratorium shall be in effect during the period between the adoption of this Amending Local Law No. 1 of 2024 and the filing of same and shall run for a period of 6 months following said adoption of this local law, to wit: From February 13, 2023 through August 13,

2024 and the filing of the same with the Secretary of State. The same may be extended by appropriate action of the Town Board.

SECTION 3. Authority.

The proposed local law is enacted pursuant to Town Law Article 16 and Municipal Home Rule Law §10(1)(ii)(a)(11) and (12).

SECTION 4. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be judged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

SECTION 5. Effective Date.

This Local Law shall become operative upon its adoption and take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law, and shall expire after the 6-month period after the effective date of the moratorium as so noted within the law.