

LOCAL LAW NO. 1 OF 2024
A LOCAL LAW CREATING A MORATORIUM ON NEW APPLICATIONS
PROPOSING BATTERY STORAGE FACILITIES AS A PRINCIPAL USE,
OR ANY PRINCIPAL USE THAT WOULD INCORPORATE A BATTERY STORAGE
FACILITY AS PART OF THE APPLICATION
WITHIN THE TOWN OF DEERPARK, ORANGE COUNTY, NEW YORK

Section 1. Purpose. It is recognized that there are some uses which, because of their very nature, are recognized as having potentially serious, negative operational characteristics while having potential benefit to the local citizenry and society at large; that such operational characteristics may be deleterious to the health, welfare, enjoyment and well-being of the citizens of the Town of Deerpark and those who live within the Town; and that the concentration of such activities can and does adversely and seriously impact and potentially endanger adjacent areas also. It is further recognized that because the Town of Deerpark is a small residential town, the proliferation of such uses could dangerously affect the welfare of the entire community and a regulation is required in order to prevent such endangering. Any application that includes a battery storage facility, particularly for lithium batteries, presents such dangers.

Section 2. Legislative Findings.

A. The Town of Deerpark Town Board has determined to conduct a study and evaluation to examine how to regulate all uses that propose a battery storage facility within the Town and what additional or alternative regulations need to be adopted in addition to or as an alternative to the existing Town Law in order to accomplish the stated purposes of the Town Board. Battery storage facilities shall include, but not be limited to, facilities designed for the storage of batteries as a primary use, and any

other structure or component of an application that proposes to store batteries on the premises subject to the application.

B. This action is exempt under SEQR pursuant to 6 NYCRR Section 617.5(c)(30) as an action involving the adoption of a moratorium on land development or construction.

Section 3. Moratorium Imposed.

A. For a period of six (6) months following date of adoption of this local law, no site plan shall be submitted or approved by action of the Planning Board and no other approvals, permits, or certificates of occupancy be granted by any board or officer of the Town for the opening, siting, maintenance and operation of any use that proposes or includes a battery storage facility. A “battery storage facility” as used in this Local Law shall mean a rechargeable energy storage system consisting of electrochemical storage batteries, battery chargers, controls, power condition systems and associated electrical equipment designed to provide electrical power to a building. The system is typically used to provide standby or emergency power, an uninterruptable power supply, load shedding, load sharing, or similar capabilities. This Local Law shall be binding on the Building Inspector, Planning Board, Zoning Board of Appeals and every applicant or property owner in the Town.

B. This moratorium may be extended by two (2) additional periods of up to three (3) months each by resolution of the Town Board upon finding a necessity for such extension.

D. During the period of the moratorium, the Town shall endeavor to complete a comprehensive set of regulations to apply to battery storage facilities.

Section 4. Violation.

A violation of this law shall constitute a violation under the penal law. Any person convicted of violating this law shall be a violation and subject to a fine not exceeding One Thousand and 00/100 Dollars (\$1,000.00) or Ninety (90) Days in jail or both. Each day a violation continues shall be

considered a separate violation. In the event that a violation is committed by a business organization or corporation, the officers and/or directors of said business enterprise shall be personally liable for any such violations.

Section 5. Supersession.

A. Town Local Law #3 of 2016 of the Town of Deerpark is hereby amended and superseded in its application to the Town of Deerpark by restricting the authority of the Planning Board to review and approve site plans with respect to commercial battery storage facilities.

B. Town Local Law #3 of 2016 of the Town of Deerpark is hereby amended and superseded in its application to the Town of Deerpark by restricting the authority of the Planning Board to grant Special Use permits with respect to commercial battery storage facilities.

C. Town Local Law #3 of 2016 of the Town of Deerpark is hereby amended and superseded in its application to the Town of Deerpark by restricting the authority of the Zoning Board of Appeals to grant use and/or area variances with respect to commercial battery storage facilities.

Section 6. This Local Law shall take effect immediately.

PLEASE TAKE NOTICE TO THE EXTENT THAT THIS LOCAL LAW MAY CONFLICT WITH APPLICABLE PORTIONS OF THE TOWN LAW OF THE STATE OF NEW YORK, IT IS THE STATED INTENTION OF THE TOWN TO EXERCISE ITS AUTHORITY TO SUPERSEDE AND AMEND, AS GRANTED UNDER THE MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK, SECTION 10. THE TOWN HEREBY PROVIDES NOTICE THAT IT IS EXERCISING ITS AUTHORITY TO SUPERSEDE AND AMEND PURSUANT TO MUNICIPAL HOME RULE LAW OF THE STATE OF NEW YORK SECTION 22.