

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Warwick

Local Law No. 2 of the year 2023

A local law entitled: "The Village of Warwick Temporary Moratorium on the Acceptance and  
(Insert Title)  
Processing of Applications for Approval of Public Utility Facilities Involving  
Energy Storage Systems"

Be it enacted by the Village Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Warwick as follows:

Please see attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

## VILLAGE OF WARWICK

### LOCAL LAW NO. 2 OF THE YEAR 2023

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

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

#### **Section 1. Authority**

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

#### **Section 2. Short Title**

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

#### **Section 3. Definitions**

"Code" means the Village of Warwick Code.

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

"Village" means the Village of Warwick.

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

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

#### **Section 4. Legislative Purpose**

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

**Section 5. Imposition of Moratorium**

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

**Section 6. Exemptions**

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

**Section 7. Alleviation of Extraordinary Hardship**

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

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

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

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

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

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

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

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

#### **Section 8. Default Approvals Abolished.**

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

#### **Section 9. Penalties.**

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

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

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

#### **Section 10. Extension or Termination of Moratorium.**

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

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

**Section 11. Validity**

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

**Section 12. Effective Date**

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

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2023 of the ~~(County)(City)(Town)~~(Village) of Warwick was duly passed by the Village of Warwick Board of Trustees on November 6 2023, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20  , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.



Clerk of the ~~county~~ legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 11/9/2023

(Seal)

77 Main Street  
Post Office Box 369  
Warwick, New York 10990  
www.villageofwarwick.org



(845) 986-2031  
FAX (845) 986-6884  
mayor@villageofwarwick.org  
clerk@villageofwarwick.org

**VILLAGE OF WARWICK**  
INCORPORATED 1867

**RESOLUTION ENACTING A LOCAL LAW**  
**IMPOSING A ONE-YEAR MORATORIUM ON LAND USE APPROVALS**  
**FOR PUBLIC UTILITY FACILITIES INVOLVING**  
**ENERGY STORAGE SYSTEMS**

WHEREAS, heretofore the Village Board has considered the adoption of a local law entitled: "The Village of Warwick Temporary Moratorium on the Acceptance and Processing of Applications for Approval of Public Utility Facilities Involving Energy Storage Systems"; and

WHEREAS, following due notice the Village Board held a public hearing on the proposed local law;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Village Board determines that the adoption of this local law is a Type II Action under SEQRA; and
2. That the Village Board hereby adopts the local law; and
3. That the local law shall be effective immediately and shall be filed in the office of the Secretary of State in Albany as required by applicable law.

Trustee McKnight presented the foregoing resolution which was seconded by Trustee Foster,

The vote on the foregoing resolution was as follows: **APPROVED**

Barry Cheney, Trustee, voting Aye

Carly Foster, Trustee, voting Aye

Thomas McKnight, Trustee, voting Aye



Mary Collura, Trustee, voting Aye

Michael Newhard, Mayor, voting Aye

I, RAINA ABRAMSON, Village Clerk of the Village of Warwick, in the County of Orange, State of New York HEREBY CERTIFY that the above motion was made at the regular meeting of the Village Board of the Village of Warwick duly called and held on Monday, November 6, 2023 and has been compared by me with the original minutes as officially recorded in the Village Clerk's Office in the Minute Book of the Village Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matter.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village of Warwick this 9<sup>th</sup> day of November 2023.

SEAL



\_\_\_\_\_  
Raina M. Abramson, Village Clerk