

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 Lenox

Local Law No. 5 of the year 2024

A Local Law to Amend Chapter 134 (“Zoning”) of the Code of the Town of Lenox to Prohibit Tier Two and Larger Battery Energy Storage Systems

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

County City Town Village
(Select one:)

of Lenox as follows:

SECTION 1. AUTHORITY

This Battery Energy Storage System Law is adopted pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments, § 10 (1) and (7); sections 261-263 of the Town Law and section 10 of the Municipal Home Rule Law of the State of New York.

SECTION 2. PURPOSE & INTENT.

This Battery Energy Storage System Law is adopted to advance and protect the public health, safety, welfare, and quality of life of the Town of Lenox by banning the installation and use of certain battery energy storage systems within town boundaries. The Town Board has recognized and acknowledged the Town needs to study and analyze many considerations that affect the preparation of local legislation to regulate battery energy storage systems. Thereafter, the Town has carefully and diligently studied regulations that would address the establishment, placement, construction, enlargement, and erection of Battery Energy Storage Systems and balanced these objectives with potential land use regulations for provisions to specifically regulate the same. Included in these considerations is the likelihood of chemical and electrical fires which connect into such systems and the inability of the Town and its fire responses to adhere to these issues in a satisfactory and safe manner given the availability of equipment, resources, and training. Upon reflection of these risks and harms, the Town Board has determined that prohibiting the establishment, placement, installation, construction, and erection of certain battery energy storage systems town-wide is in the best interests of the Town.

SECTION 3. AMENDMENT OF CHAPTER 134 (“ZONING”) TO ADD NEW TERMS TO § 134-4 (“DEFINITIONS”)

Chapter 134, Article II, Subsection 4 of the Code of the Town of Lenox, titled “Definitions,” is hereby amended to add the following terms in correct alphabetical order:

“**BATTERY (IES)** -- A single cell or a group of cells connected together electrically in

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

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

series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

BATTERY ENERGY STORAGE SYSTEM -- A rechargeable energy storage system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems and associated electrical equipment designed to store energy to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room, contained, or enclosed area, consist of only a single energy storage system technology.

B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room, contained, or enclosed area.

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

SECTION 4. AMENDMENT OF CHAPTER 134 (“ZONING”) TO ADD NEW LANGUAGE TO § 134-52.8(I) (“GENERAL REQUIREMENTS APPLICABLE TO SOLAR FARMS”)

Chapter 134, Article VIA, Subsection 52.8(I) of the Code of the Town of Lenox, titled “General requirements applicable to solar energy systems,” is hereby amended so that it reads in its entirety as follows:

“I. The application for any solar energy system shall specifically recite the use or nonuse of solar storage batteries, their placement, capacity, and compliance with all existing New York State and federal rules and regulations. If solar storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations. To protect public health and safety, and the aesthetic quality of the Town, the establishment, placement, construction, enlargement, and erection of Tier 2 Battery Energy Storage Systems and larger are hereby prohibited, regardless of their inclusion in a commercial solar or wind energy system or as a standalone system.”

SECTION 5. ENFORCEMENT.

Any violation of Local Law No. E of 2024 shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town of Lenox.

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

SECTION 6. SEVERABILITY.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, 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.

SECTION 7. EFFECTIVE DATE.

This Local Law shall be effective upon its filing with the New York Secretary of State.

(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. ___ of 2024** of the **Town of Lenox** was duly passed by the **Town Board** on **June 10, 2024**, in accordance with the applicable provisions of law.

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 **Town of Lenox** was duly passed by the **Town Board** on _____, 20__, and was (approved/not approved/ repassed after disapproval) by the **Town Board** and was deemed duly adopted 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 **Town of Lenox** was duly passed by the **Town Board** on _____, 20__, and was (approved/not approved/ repassed after disapproval) by the **Town Board** on _____, 20__.

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 **Town of Lenox** was duly passed by the **Town Board** on _____, 20__, and was (approved/not approved/ repassed after disapproval) by the **Town Board** 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.~~

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

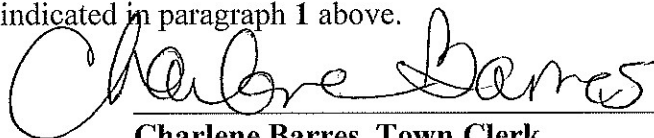
~~I hereby certify that the local law annexed hereto, designated as local law No. ___ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36/37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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.



**Charlene Barres, Town Clerk
Town of Lenox**

(Seal)

Date: June 10, 2024