

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2024**

**A LOCAL LAW ESTABLISHING CHAPTER 76 OF THE TOWN CODE
ENTITLED “TEMPORARY MORATORIUM ON BATTERY ENERGY
STORAGE SYSTEMS FACILITIES.”**

BE IT ENACTED by the Town Board of the Town of North Hempstead as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to enact Chapter 76 of the Town Code enacting a “Temporary Moratorium on Battery Energy Storage Systems Facilities” in order to establish a one (1) year moratorium on the issuance or approval of any building permits, variances, or special exceptions from any agency, board or employee of the Town of North Hempstead for the utilization of parcels of land for Battery Energy Storage Systems Facilities

Section 2.

Chapter 76 of the Town Code is hereby established to read as follows:

§ 76-1. Legislative Intent.

- 1. The Board finds that it is in the best interest of the Town of North Hempstead to enact Chapter 76 of the Town Code enacting a “Temporary Moratorium on Battery Energy Storage Systems Facilities” in order to place a one (1) year moratorium on all matters concerning Battery Energy Storage Systems (hereinafter “BESS”) which consist of rows of rechargeable batteries housed in self-contained, interconnected storage units. The Town Board finds that in order to ensure the public health, safety and welfare, a thorough examination of the risks of these facilities must be ascertained prior to the submission of any applications requesting approval for this use.**
- 2. The Town Board finds it imperative that the Town undertake a thorough examination of these systems to identify any possible threats to public health, safety and welfare as well as evaluate the potential for environmental degradation.**
- 3. The Town requires the moratorium to carefully evaluate the implications of BESS facilities to assess how they may impact the town, its residents, and its fire prevention infrastructure.**
- 4. The Town Board of the Town of North Hempstead has determined that in accordance with Section 617.5 of the State Environmental Quality Review**

(SEQR), the adoption of a moratorium on applications for building permits and/or certificate of occupancies for land development or construction of Battery Energy Storage System Facilities constitutes a Type II Action, and further that the proposed moratorium has been identified as an Action not having a significant impact on the environment and is not subject to review under SEQR.

§ 76-2 Definitions.

1. Battery Energy Storage Systems Facilities: A facility, structure, building, or parcel of land that holds or houses electrochemical devices that charge, or collect energy, from a power grid and are then discharged to provide energy to parcels, structures, facilities, dwellings, or utilities serviced by that grid.
2. Moratorium: A local enactment which temporarily suspends a landowner's right to obtain development approvals while the community considers and potentially adopts changes to its comprehensive plan and/or its land use regulations to address new circumstances not addressed by its current laws.

§ 76-3 Moratorium on Battery Energy Storage Systems Facilities.

Until August 13, 2025, after which this chapter shall lapse and be without further force and effect, unless extended pursuant to a resolution of the Town Board of the Town of North Hempstead, no agency, board, board officer or employee of the Town of North Hempstead, including, but not limited to, the Town Board, the Board of Appeals, Planning Board, or Department of Buildings issuing any approval or building permit pursuant to any provision of the Town Code of the Town of North Hempstead, shall accept any application, review any application, or issue, cause to be issued, or allow to be issued any approval, special exception, variance, site plan, or building permit, for any applications requesting that a proposed parcel to be permitted for use as a Battery Energy Systems Storage Facilities.

§ 76-4 Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or parts.

§ 76-5 Repeal of other laws.

All local laws in conflict with the provisions of this Local Law are hereby superseded and suspended for the duration of this moratorium and for any additional period that this Local Law is extended. This Local Law also supersedes, amends and takes precedence over any inconsistent provisions of New York State Town Law, the

Town's Municipal Home Rule powers, pursuant to Municipal Home Rule Law Sections 10 and 22. The Town Law provisions intended to be superseded include all of the Article 16 of the Town Law, Sections 261-285 inclusive and any other provisions of law that the Town may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and to apply such intent in the event the Town has failed to specify any provisions of law that may require supersession. The Town Board hereby declares that it would have enacted this local law and superseded such inconsistent provisions had it been apparent.

Section 3.

This Local Law shall take effect immediately upon filing with the Secretary of State.