

Local Law 4-2026

A local law amending Chapter 270 (Zoning) of the Village of Ossining Code:

BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:

Section 1. Chapter 270 (Zoning) is amended with new language underlined.

Article XXII Temporary moratorium on Battery Energy Storage Systems

Section 270-117 Purpose

The purpose of this local law is to protect the public health, safety and welfare of the residents of the Village of Ossining and to maintain the status quo by temporarily suspending the processing of land use approvals and the granting of approvals for certain Battery Energy Storage Systems (BESS) for a period of eight months from the effective date of this article while the Board of Trustees studies whether amendments to the Village Code are necessary regarding the propriety of battery energy storage systems.

Section 270-118 Legislative findings

- A. The Village of Ossining is a suburban, largely residential community located in Westchester County on the Hudson River approximately thirty-five miles north of New York City. The village is home to approximately 27,000 residents who reside in several distinct residential neighborhoods.
- B. The placement of battery energy storage systems in a densely populated village and in close proximity to its natural resources raises issues of serious concern for the health, safety and welfare of village residents. The Board of Trustees acknowledges that these systems play an important role in reducing demand and costs associated with power grid infrastructure, add capacity while lessening the burden on existing infrastructure, and reduce emissions. 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 and critical environmental areas. Indeed, several fires at battery energy storage facilities across New York State including recently in Warwick, New York have significantly raised concerns by the Board of Trustees and emergency and first responders who must manage these concerns and ensure public safety. The Board of Trustees therefore has decided that it is necessary to review the Village Code and consider potential amendments in order to address the safety concerns presented by battery energy storage systems.
- C. The Board of Trustees intends to study the safety and security of these battery energy storage systems, including thermal runaway, off gassing and toxicity, stranded energy, ways to prevent fires, prevent by-product contamination, and ensure that emergency responders have the necessary training and information to prepare and deploy resources in the event of a fire. The Board of Trustees also will study in which areas of the village it may be appropriate to locate such systems.
- D. In order to allow the Board of Trustees time to complete its review, draft and adopt new legislation, the Board of Trustees deems it in the best interest of the general health, safety and welfare of village residents to impose a temporary moratorium prohibiting the review and

approval of applications and permits for Tier 1 and Tier 2 battery energy storage systems in the Village of Ossining.

Section 270-119 Definitions

Battery Energy Storage System- One or more devices, assembled together, capable of storing energy in order 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 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 or enclosed area.

Section 270-120 Moratorium established

Pursuant to the statutory authority vested in the village to regulate and control land use and to protect the health, safety and welfare of its residents, the Board of Trustees adopts this moratorium on the review and approval of new, as yet unfiled and any and all pending applications for land use approvals, subdivision plats, building permits, special use permits and variances ("land use approvals") involving the construction and installation of Tier 1 and Tier 2 battery energy storage systems. During the period of this moratorium:

- A. The Planning Board shall not accept any application, grant any approval to, or continue the review of a subdivision plat, site plan or other permit that includes the permitting, construction and/or development of Tier 1 or Tier 2 battery energy storage systems in the village.
- B. The Zoning Board of Appeals shall not accept any application, grant any approval for a variance or other permit or continue the review of any application that would have as a result the permitting, construction and/or development of Tier 1 or Tier 2 battery energy storage systems in the village.
- C. The Board of Trustees shall not accept any application, grant any approval or continue the review of any application for a special use permit that would have as a result the permitting, construction and/or development of Tier 1 or Tier 2 battery energy storage systems in the village.
- D. The Building Department shall not accept any building permit application, grant approval to or continue the review of such application or grant any certificate of compliance that would have as a result the permitting, construction and/or development of Tier 1 or Tier 2 battery energy storage systems in the village.
- E. Projects currently under construction and projects that have received final approvals are not subject to this moratorium.

Section 270-121 Duration of Moratorium

The moratorium imposed by this article shall be effective for eight months from the effective date.

Section 270-122 Early termination or extension of local law

- A. In the event that the Board of Trustees should determine that no new local law which addresses the substantive issues set forth herein needs to be enacted prior to the date the moratorium expires, then the moratorium shall expire on the date such determination is made by resolution of the Board of Trustees.
- B. In the event that any new local law which addresses the substantive issues set forth herein should be enacted prior to the date that the moratorium expires, then the moratorium shall expire on the date the new local law takes effect pursuant to section 27 of the Municipal Home Rule Law.
- C. In the event that more than six months have passed since the effective date of this local law and it shall be determined by the Board of Trustees that an extension of this moratorium is required, then the Board of Trustees may extend this moratorium for such a period of time as it deems necessary in order to fulfill the purpose noted in section 270-117.

Section 270-123 Hardship

- A. Should an applicant suffer any extraordinary hardship due to the enactment and application of this moratorium, the applicant may apply to the Board of Trustees for a variance from strict compliance with this local law upon submission of proof of such extraordinary hardship. For purposes of this local law extraordinary hardship shall not be considered:
 - The mere concern that regulations may be changed or adopted or that the Village Code may be amended.
 - The mere delay in being permitted to make an application or waiting for a decision on the application for Land Use approval during the period of the moratorium imposed by this Local Law.
- B. An application for an exception based on extraordinary hardship shall be filed with the Village Clerk including a fee of Five Hundred and 00/100 (\$500.00) Dollars for each tax map parcel claimed to be subject to extraordinary hardship. The application shall include 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 Board of Trustees requires to be fully informed with respect to the application.
- C. A public hearing on any application for an exception to the moratorium shall be conducted by the Board of Trustees no later than forty-five (45) days after receipt of a complete application. The Board of Trustees shall note in the resolution calling for the public hearing that the application is complete.
- D. In reviewing an application for an exception to the moratorium based upon a claim of extraordinary hardship, the Board of Trustees shall consider the following criteria:
 - The extent to which the proposed development activity would cause significant environmental degradation, adversely impact existing development in the affected zoning districts, be detrimental to public health comfort or safety concerns and/or have a negative impact on the Village of Ossining.
 - Whether the moratorium will expose an applicant to substantial monetary liability to a third person or would leave the applicant completely unable, after a thorough review of alternative solutions, to have a reasonable alternative use of the property.
 - The extent to which actions of the applicant were undertaken in good faith belief that the proposed development would not lead to significant environmental degradation,

adversely impact existing development in the area, have an adverse impact on public health or safety, and/or have a negative impact upon the Village of Ossining.

- Such other considerations and issues as may be raised by the Board of Trustees.

E. At the public hearing the applicant and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard. The Board of Trustees shall within thirty (30) days of the close of the public hearing render its decision in writing granting, denying, granting in part or denying in part the application for a hardship waiver. Should the Board of Trustees determine that an applicant will suffer an extraordinary hardship if the moratorium is strictly applied to a particular property, then the Board of Trustees shall revise the moratorium to the minimum extent necessary to provide the applicant relief from strict compliance with this local law.

Section 270-124 Authority

This article is adopted pursuant to New York State Constitution, Article IX, Section 2(c)(6) and (10), New York State Statute of Local Governments, Section 10(1) and (7), and Municipal Home Rule Law section 10. This article shall supersede those provisions of New York State law and the Village of Ossining Code requiring the Board of Trustees, Planning Board, Zoning Board of Appeals and/or Building Department to accept, process and/or approve applications involving the permitting, construction and/or development of Tier 1 and Tier 2 battery energy storage systems within specified statutory time periods.

Section 270-125 Severability

If any clause, sentence, paragraph or section of this article shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this article, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or section thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 2. Effective date

This local law shall be effective upon filing with the Secretary of State pursuant to section 27 of the Municipal Home Rule Law.