**TOWN OF HARPERSFIELD**

**LOCAL LAW NO. 006 FOR THE YEAR 2026**

# A LOCAL LAW TO ENACT A TEMPORARY MORATORIUM ON BATTERY ENERGY STORAGE SYSTEMS (BESS)

Be it enacted by the Town Board of the Town of Harpersfield, in the County of Delaware, as follows:

## SECTION 1. TITLE

This Local Law shall be known as the Temporary Moratorium on Battery Energy Storage Systems ("BESS") within the Town of Harpersfield.

## SECTION 2. AUTHORITY

This Local Law is adopted pursuant to the New York Municipal Home Rule Law §§10 and 20, including §10(1)(ii)(a)(11), and New York Town Law §130, including subsections (5), (15), and (16), for the protection of public health, safety and welfare.

## SECTION 3. LEGISLATIVE INTENT AND FINDINGS

The Town of Harpersfield currently lacks regulatory provisions governing Battery Energy Storage Systems (BESS). BESS facilities present evolving risk including thermal runaway events, prolonged fires, toxic emissions, and explosion hazards. The Town relies on a volunteer fire department with limited staffing, training, and equipment to respond to such incidents. The Town lacks regulations addressing setbacks, hazardous material separation, emergency access, and fire suppression planning. Therefore, the Town Board intends to develop a comprehensive BESS law to regulate this use in the Town of Harpersfield. The Town Board believes it is in the public interest to maintain the status quo while this work progresses. Without a moratorium, applications could be submitted and approved without specific or effective standards that are tailored to the Town of Harpersfield, creating vested rights and irreversible land use impacts. This moratorium is necessary to perverse the status quo and allow sufficient time to adopt proper regulations.

## SECTION 4. DEFINITIONS

Battery Energy Storage System ("BESS"): Any system storing electrical energy using electrochemical batteries, including all associated equipment such as containers, inverters, transformers, control systems and infrastructure. This definition shall include battery storage systems that are used or proposed in connection with a solar energy project. This definition does not include a standalone 12-volt car battery, electric motor vehicle, or battery storage systems that may be installed in connection with a roof-top solar panel installation for residential and/or commercial use.

## SECTION 5. MORATORIUM

No application, permit, approval, site plan, or authorization for the siting, construction, installation, expansion, or operation of any BESS shall be accepted, processed, reviewed or approved. Any pending applications are immediately suspended. No person shall attempt to circumvent this moratorium through phased applications, reclassification, or site preparation activities.

## SECTION 6. HARDSHIP

A. Should any owner of real property believe that they have suffered any unnecessary and extreme hardship through the application of the terms of this local law, said owner may apply to the Town Board of the Town of Harpersfield in writing for a waiver from strict compliance with this Local Law. Such owner must submit such proof as they deem appropriate to demonstrate an unnecessary and extreme hardship. However, a mere delay in being permitted to make an application or in waiting for a decision on an application, site plan, or subdivision, relating to the use of their property or a Battery Energy Storage System shall not be deemed to be an unnecessary hardship

B. Upon submission of a written application to the Town Clerk by the property owner seeking a waiver of the Local Law, the Town Board shall within 30 days of receipt of said application schedule a public hearing, which shall be no later than 60 days after receipt of the written application. Notice of said public hearing shall be made at least five days prior written notice in the official newspaper of the Town and notice of said public hearing shall be made by regular mail to all adjoining landowners of the application as such addresses are shown upon the tax rolls.

C. At said public hearing the property owner and any other party wishing to present evidence or testimony with regard to the application shall have an opportunity to be heard. Within 30 days of the close of said public hearing, or such additional time as agreed to between the Town Board and the property owner, the Town Board shall render its decision either granting or denying the application for a variation of the strict compliance of this Local Law.

## SECTION 7. PERMIT INVALIDATION

Any permit issued in violation of this Local Law shall be null and void. In the event a permit is issued in violation of this local law, a written Stop Work Order shall be posted at the site and served to responsible parties. All work must cease immediately.

## SECTION 8. TERM

This moratorium shall remain in effect for six (6) months.

## SECTION 9. EXTENSION

This moratorium may be extended for an additional period not to exceed six (6) months upon resolution of the Town Board, if deemed necessary to complete the drafting and adoption of a BESS law.

**SECTION 10. SEQRA**

This action is classified as a Type II Action under SEQRA and is not subject to further environmental review.

**SECTION 11. CONFLICTS**

This Local Law shall prevail over any conflicting provisions.

**SECTION 11A. NO VESTED RIGHTS**

No vested rights shall accrue during the moratorium period.

**SECTION 12. SEVERABILITY**

If any provision of this Local Law is found to be invalid, the remainder shall remain in effect.

**SECTION 13. SUSPENSION AND SUPERSESSION OF OTHER LAWS**

All local laws in conflict with the provisions of this Local Law area hereby superseded and suspended for a period of six (6) months from the effective date of this Local law. This Local Law also supersedes, amends, and takes precedence over any inconsistent provisions of New York Town Law under the Town's Municipal Home Rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3), §10(1)(ii)(a)(14), and §22.

In particular, this Local Law supersedes any inconsistent provisions of New York Town Law §267, §267-a, §267-b, §274-a, §274-b, §276 and §277 for the purpose of vesting the Town Board of the Town of Harpersfield with the authority to accept, hear, process and determine applications for variances from this Local Law.

**SECTION 14. EFFECTIVE DATE**

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

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