

RESOLUTION #_____

SET PUBLIC HEARING – LOCAL LAW NO. _____-2021

RESOLUTION TO SET PUBLIC HEARING TO ADOPT A LOCAL LAW TO AMEND THE RICHMOND TOWN CODE AT PART II “GENERAL LEGISLATION” TO ADD CHAPTER 195 “TWELVE-MONTH MORATORIUM ON LARGE-SCALE BATTERY ENERGY STORAGE SYSTEM INSTALLATIONS”

WHEREAS, the Richmond Town Board (“Town”) seeks to adopt a Local Law to impose a 12-month moratorium on the installation of Large-Scale Battery Energy Storage System Installations in the Town of Richmond, amending the Town Code at Part II “General Legislation,” to add Chapter 195 “Twelve-Month Moratorium on Large-Scale Battery Energy Storage System Installations;” and

WHEREAS, the moratorium will enable the Town to consider changes to the provisions of the Town Code relating to Large-Scale Battery Energy Storage System Installations; and

WHEREAS, this moratorium will not apply to Large-Scale Battery Storage System Installation projects that have obtained a Special Use Permit prior to the enactment of this Local Law; and

WHEREAS, the Town seeks to have a Public Hearing to obtain public input on the Local Law relating to the Twelve-Month Moratorium on Large-Scale Battery Energy Storage System Installations; and now, therefore, be it

RESOLVED, that the Town will hold a Public Hearing to obtain public input as it considers a Local Law to amend the Richmond Town Code at Part II “General Legislation,” Chapter 195 “Twelve Month Moratorium on Large-Scale Battery Energy Storage System Installations” that would impose a twelve-month moratorium on new Large-Scale Battery Energy Storage System Installation projects while the Town considers legislation designed to regulate and govern such installations; and be it further

RESOLVED, that the Local Law shall be submitted to the Ontario County Planning Board for review of inter-community or county-wide considerations; and be it further

RESOLVED, that the Town has determined that the adoption of this moratorium is a Type II action under the State Environmental Quality Review Act and is exempt from review; and

RESOLVED, that the moratorium will not apply to Large-Scale Battery Storage System Installations that are part of projects that have obtained approval prior to the enactment of this Local Law; and it be further

RESOLVED, that a Public Hearing shall be had on the 13th day of April 2021, at 7:00 p.m., for the purpose of hearing comments on the following Local Law that imposes a twelve-month moratorium on Large-Scale Battery Energy Storage System Installations:

LOCAL LAW ____ 2021 - TO AMEND PART II “GENERAL LEGISLATION” TO ADD CHAPTER 195 “TWELVE-MONTH MORATORIUM ON LARGE-SCALE BATTERY ENERGY STORAGE SYSTEM INSTALLATIONS.”

Section I. Authorization

The adoption of this Local Law is in accordance with Section 10 of New York's Municipal Home Rule Law.

Section II. Title and Purpose

This local law shall be known as and may be cited as Local Law No. ____-2021, to amend the Richmond Town Code at Part II "General Legislation," to add Chapter 195 "Twelve-Month Moratorium on Large-Scale Battery Energy Storage System Installations", a provision that would impose a twelve-month moratorium on new Large-Scale Battery Energy Storage System Installations while the Town considers legislation designed to regulate and govern such installations. The Town has taken previous action on this matter resulting in a resolution requiring a previous twelve-month moratorium on Large-Scale Battery Energy Storage System Installations. This moratorium will provide the Town additional time to determine whether permanent comprehensive local legislation is necessary and in the best interest of the Town. The Town Board seeks to continue studying and considering Large-Scale Battery Energy Storage System Installations and their impact on the environment.

Section III. Legislative Finding

The Town of Richmond has historically permitted Large-Scale Battery Energy Storage System Installations. A previous twelve-month moratorium on Large-Scale Battery Energy Storage System Installations was passed by resolution by the Richmond Town Board and this moratorium expires on April 23, 2021. After completing review of the Town's Large-Scale Battery Energy Storage System Installations, the Town believes it is necessary to impose an additional twelve-month moratorium on new Large-Scale Battery Energy Storage System Installation projects while the Town considers legislation designed to regulate and govern such installations. This moratorium will provide the Town additional time to determine whether permanent comprehensive local legislation is necessary and in the best interest of the Town. The Town Board seeks to continue studying and considering Large-Scale Battery Energy Storage System Installations and their impact on the environment. The proposed moratorium will not apply to projects that have obtained previous approval for a Large-Scale Battery Energy Storage System Installation.

Section IV. Amendment.

Part II of the Richmond Town Code, "General Legislation" shall be amended to add Chapter 195 entitled "Twelve Month Moratorium on Large-Scale Battery Energy Storage System Installations" as follows:

Chapter 195: Large-Scale Battery Energy Storage System Installation Moratorium

§195-1 - Intent.

This chapter is enacted for the purpose of permitting the Town to consider potential amendments to the Code to regulate Large-Scale Battery Energy Storage Installation activities in the Town so as to protect the safety, security and welfare of the residents and businesses within the Town.

§195-2 – Definitions.

As used in this chapter, unless the context otherwise requires, the following terms shall have the meanings indicated:

Large-Scale Battery Energy Storage System Installation(s) - Any installation of a rechargeable energy storage system having an aggregate energy capacity of 600kWh or more, consisting of electrochemical storage batteries or similar technology, battery chargers, controls, power conditioning systems, inverters, transformers, switchgears and associated electrical equipment designed to store electrical power received from a generating or transmission source and periodically discharging power from the battery energy storage system into the power grid. Systems typically used to provide standby or emergency power and/or an uninterruptable power supply, load shedding, load sharing, or similar capabilities relating to the energy consumed by a residence, farm operation or business on site and having an aggregate energy capacity of less than 600kWh shall not be considered "Large-Scale Battery Energy Storage System Installation(s)" for purposes of this Moratorium.

§195-3 – Moratorium and Prohibition.

A. Unless permitted pursuant to §195-4 hereafter, from and after the date of this Local Law, no application for a permit, zoning permit, special use permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official or agent of the Town of Richmond, for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Town of Richmond, for any Large-Scale Battery Energy Storage System Installation(s), as defined above.

B. Unless permitted pursuant to §195-4 hereafter, from and after the date of this Local Law, no person, entity, or business shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Town of Richmond for any Large-Scale Battery Energy Storage System Installation(s), as defined above.

C. The prohibitions set forth above in Clauses A and B of this §195-3 are not intended, and shall not be construed, to prevent or prohibit the use and development of battery energy storage systems that are typically used to provide standby or emergency power and/or an uninterruptable power supply, load shedding, load sharing, or similar capabilities and that are for personal or individual use on or about any residence or place of business, or any farm operation, so long as such use does not have an aggregate energy capacity of 600kWh.

D. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is twelve (12) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating the Town Board has

determined that the need for this moratorium and prohibition no longer exists.

E. This moratorium and prohibition shall apply to all real property within the Town of Richmond, and all land use applications for the siting or creation of Large-Scale Battery Energy Storage System Installation(s) within the Town of Richmond.

F. Under no circumstances shall the failure of the Town Board, the Zoning Board of Appeals, the Planning Board, or the Code Enforcement Officer for the Town of Richmond to take any action upon any application for a permit, zoning permit, special use permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or any other Town-level approval related to Large-Scale Battery Energy Storage System Installation(s) constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

§195-3 Hardship Variance Relief from Applicability of Moratorium.

A. Hardship Applications. Should any owner of real property believe that they have suffered an 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 Richmond 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.

B. Upon submission of a written application to the Town Clerk of 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 at a future date, which date shall be no later than 60 days after receipt of the written application. Notice of said public hearing shall be made upon 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 regarding the application shall have an opportunity to be heard. Within 15 days of the close of said public hearing, the Town Board shall render its decision either granting or denying the application.

§195-4 Penalties.

A. Any person or entity that shall violate the terms of this Local Law shall be guilty of a violation and subjected to such penalties as prescribed by Chapters § 200-71, § 200-72, and § 200-73 of the Richmond Town Code. Each day that the violation continues shall be deemed a separate offense.

In addition, the Town may enforce this Local Law by seeking an injunction or any other legal remedy it deems appropriate.

Section V. Conflicts

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory Local Law, ordinance, regulation or Town Code provision.

Section VI. Validity and Severability

Should the removal of any word, section, clause, paragraph, sentence, part, or provision of this local law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

Section VII. Repeal, Amendment and Supersession of Other Laws

All other ordinances or local laws of the Town of Richmond which are in conflict with the provisions of this local law are hereby superseded or repealed to the extent necessary to give this local law force and effect.

Section VIII. Effective Date

The effective date of this Local Law shall be immediately upon its filing with the Secretary of State and will be in effect for a period of twelve (12) months following said filing; and it is further

RESOLVED that the Town Clerk advertise for said Public Hearings in a manner consistent with law.

NOTICE OF PUBLIC HEARING TO ADOPT A LOCAL LAW AMENDING THE RICHMOND TOWN CODE AT PART II "GENERAL LEGISLATION," TO ADD CHAPTER 195 "TWELVE-MONTH MORATORIUM ON LARGE-SCALE BATTERY ENERGY STORAGE SYSTEM INSTALLATIONS"

PLEASE TAKE NOTICE that a proposed Local Law is under consideration by the Town Board of the Town of Richmond, New York, to amend the Richmond Town Code at Part II "General Legislation," to add Chapter 195 "Twelve-Month Moratorium on Large-Scale Battery Energy Storage System Installations" that will impose a twelve-month moratorium on new Large-Scale Battery Energy Storage System Installations while the Town evaluates and possibly revises certain provisions of the Code.

PLEASE TAKE FURTHER NOTICE that said proposed Local Law is on file in the Richmond Town Clerk's Office located at 8690 Main Street, Honeoye, New York, where it is available for public inspection during regular business hours.

PLEASE TAKE FURTHER NOTICE that a Public Hearing upon said proposed Local Law has been scheduled for the 13th day of April 2021, on or at 7:00 PM, to be held by the Richmond Town Board at the Richmond Town Hall, located at 8690 Main Street, Honeoye, New York.

An opportunity to be heard in regard to this proposed Local Law will then and there be given. Written comments may also be directed to the Richmond Town Clerk, Richmond Town Hall, 8690 Main Street, Honeoye, New York, on or before 4:00 PM on the 13th day of April 2021. The Richmond Town Hall has barrier-free access for the physically handicapped, and any such handicapped person seeking transportation to said Public Hearing may contact the Richmond Town Clerk during regular business hours.

Dated: _____, 2021

Linda Grace, Town Clerk