

**TOWN OF TICONDEROGA
COUNTY OF ESSEX, STATE OF NEW YORK
Local Law No. 3 of 2026**

**A LOCAL LAW IMPOSING A MORATORIUM
ON LOCATING BATTERY ENERGY STORAGE SYSTEMS
IN THE TOWN OF TICONDEROGA**

Be it enacted by the Town Board of the Town of Ticonderoga (“Town”), County of Essex, State of New York (“State”) as follows:

Section 1. Legislative Intent.

The purpose of this local law is to protect the public health, safety and welfare by restricting the development of certain battery energy storage systems within the Town of Ticonderoga for a limited period of time in order to further develop and revise the applicable local laws specific to the development of such certain battery energy storage systems.

Section 2. Findings.

The State of New York has, as a matter of public policy, undertaken a policy to encourage the development of facilities for the generation of renewable energy and battery energy storage systems. The Town Board of the Town of Ticonderoga has supported this initiative and previously amended its Zoning Law to provide for the generation of renewable energy and battery energy storage systems. However, the Town Board has also received concerns, including from the Town’s Planning and Zoning Board, as to the potential impacts from battery energy storage systems, particularly Tier 2 or Tier 3 battery energy storage systems as defined in the Town’s Zoning Law. The Town Board is therefore concerned that the current Zoning Law of the Town of Ticonderoga, (the “Zoning Law”) and the existing site plan review considerations detailed therein may not be adequate for the review of the impacts and mitigation of the consequences of such Tier 2 or Tier 3 battery energy storage systems uses and the approval thereof.

The Town Board has been made aware of fire and safety risks associated with Tier 2 or Tier 3 battery energy storage systems that were not readily apparent at the time the Town Board adopted its zoning changes to permit such battery energy storage facilities in the Town. Since that time, fires have raised the alarm concerning said uses, and while such concerns merit review by the Town Board. The Town Board is desirous of implementing a moratorium in order to obtain additional information and assurances about the safety of Tier 2 or Tier 3 battery energy storage systems, including, but not limited to, ensuring the technology and availability of equipment necessary for local fire districts to be able to suppress or appropriately respond to a fire should one occur, taking necessary precautions related to air emissions and deterring any necessary fire suppression chemicals from impacting surface and groundwater, and creating standards for siting these battery energy storage systems.

Therefore, it is necessary and appropriate to implement a temporary and limited moratorium with respect to the development of Tier 2 or Tier 3 battery energy storage systems in the Town of

Ticonderoga. Doing so shall preserve the status quo while the Town Board completes an evaluation and formulates revisions to the Zoning Law, and perhaps other laws, of the Town of Ticonderoga to provide for an effective process to regulate, review, and render determinations on applications for Tier 2 or Tier 3 battery energy storage systems and developing policies and procedures in accordance therewith.

Reference in this local law to Tier 2 or Tier 3 battery energy storage systems shall be as defined in the Town's Zoning Law in effect as of the date hereof.

Section 3. Moratorium Imposed.

- A. **Battery Energy Storage Systems Temporarily Prohibited.** For a period of six (6) months following the date of adoption of this local law, no site plan applications or use variance applications shall be accepted, reviewed, or approved by the Planning and Zoning Board of Appeals, nor any permit(s) shall for such applications be issued by the Town of Ticonderoga or Essex County with respect to Tier 2 or Tier 3 battery energy storage systems as defined in the Town's Zoning Law.

- B. **Evaluation and Revision of Existing Regulations.** During the period of the moratorium established by this local law, the Town Board shall endeavor to evaluate and adopt revisions to the Town's local law(s) to address the use and regulation of Tier 2 or Tier 3 battery energy storage systems.

Section 4. Extension of Moratorium.

This moratorium may be extended for up to two (2) additional periods not exceeding six (6) months each by resolution of the Town Board upon a finding of necessity for such extension.

Section 5. Relief From Requirements.

The Town Board reserves to itself the right and sole discretion to vary or adapt the strict application of this local law in the case of unusual hardship or circumstances that would deprive a property owner of the reasonable use of lands affected by this local law. Accordingly, by duly adopted resolution, the Town Board may authorize the Planning and Zoning Board of Appeals to review and consider for approval or disapproval a site plan application, the review of which is otherwise precluded by this local law, or the Building Inspector to issue the requisite permits otherwise precluded by this local law, subject to the regular review process for such variance, special use, site plan, or building permit, under circumstances where:

- A. An application for a variance is filed, in writing, with the building codes office, together with a filing fee in the sum of \$250.00. The application shall specifically identify the land involved, recite the nature and scope of the proposed development, provide a narrative description and a sketch plan of the proposed development. The applicant shall further describe the following:
 - 1. The reasons for which the variance is requested and the grounds upon which it is

sought to be approved, including all facts and circumstances upon which hardship is claimed.

2. The potential fire and safety risks associated with the proposed development, including, but not limited to: the location of the proposed development in relating to habitable structures and firefighting facilities, response time, sources of fire fighting water or chemicals; the management of fire fighting in the area of the proposed development relative to preventing brush and structure fires; the sufficiency of any plans for evacuation, air monitoring and testing and any other measures deemed necessary by the Town Board for addressing the concerns arising out of Tier 2 or Tier 3 battery energy storage system fires; and the environmental significance, if any, of the applicant's parcel and surrounding parcels and the proposed development's impact on the environment.
- B. All costs incurred by the Town in connection with the consideration of the application for a variance are paid by the applicant, including but not limited to, all professional consulting fees such as attorneys, engineers, and planners.
 - C. The applicant demonstrates that this local law has resulted in unnecessary hardship in that: the applicant has been deprived of substantially all economic use or benefit from the property in question, which must be established by competent financial evidence; the alleged hardship is unique to the applicant's property and does not apply to a substantial portion of other properties in the areas of the Town to which this local law applies; and the variance, if granted, will not pose a present or future risk to the health, safety and welfare of the residents in the vicinity of the proposed development and the Town at large.
 - D. The Town Board may refer any applications for a variance hereunder to the Planning and Zoning Board of Appeals, any other Town board, committee or department, and/or its professional consultants for their advice and recommendations. Nevertheless, all decisions as to the granting or denying of such variances shall be made by the Town Board in its sole and absolute discretion after determining whether the requested variance is compatible with protection of the environment and any contemplated revisions to the Town's local law(s). No variance shall be granted unless the Town Board determines the requested variance is compatible therewith.
 - E. The Town Board shall conduct a public hearing on any request for a variance within forty-five (45) days after it determines that a complete application has been submitted to it. The Town Board shall render its determination upon any application for a variance within sixty-two (62) days after the conclusion of the public hearing.
 - F. The granting of a variance by the Town Board does not preclude or otherwise restrict the Planning and Zoning Board of Appeals' review and jurisdiction of the site plan application pursuant to the Zoning Law of the Town of Ticonderoga.

Section 6. Conflict With Other Laws.

This local law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law and, during the time it is in effect, it specifically supersedes and shall take precedence over any contrary laws, ordinances and provisions, including but not limited to Article 16 of NYS Town Law or local laws of the Town of Ticonderoga.

Section 7. Penalties for Offenses and Enforcement.

Any person who shall develop or erect or install improvements upon land in violation of this local law, or break ground for the purpose thereof, shall be guilty of a violation and subject to a fine not to exceed \$1,000.00 or six (6) months in jail, or both. Each week a violation continues shall be considered a separate and distinct violation. This local law shall be enforced by the Building Inspector of the Town of Ticonderoga who is hereby granted authority to issue appearance tickets for the purpose thereof. Upon authorization by the Town Board, this local law may also be enforced by civil action brought in the name of the Town for the purpose of obtaining injunctive relief and recovering civil penalties of \$950.00 for each week a violation of the local law continues.

Section 8. Effect of Invalidity.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjusted finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions not been included.

Section 9. Effective Date.

This local law shall take effect immediately upon adoption.