

**VILLAGE OF CROTON-ON-HUDSON
BOARD OF TRUSTEES**

LOCAL LAW INTRODUCTORY NO. ____-2023

A LOCAL LAW TO AMEND THE ZONING LAW OF THE VILLAGE OF CROTON-ON-HUDSON, CHAPTER 230, TO PROVIDE FOR BATTERY ENERGY STORAGE SYSTEMS

Be it enacted by the Board of Trustees of the Village of Croton-on-Hudson as follows:

Section One. The Zoning Law of the Village of Croton-on-Hudson, Chapter 230, is hereby amended to add a new Section 230-48.2 entitled “Battery energy storage systems” to read as follows:

§ 230-48.1. Battery energy storage systems.

- A. Authority. This section is adopted pursuant to §7-700 through §7-704 of the Village Law and § 10 of the Municipal Home Rule Law of New York State (NYS), which authorize the Village to adopt zoning provisions that advance and protect the health, safety and welfare of the community.
- B. Statement of purpose. This Battery Energy Storage System Law is adopted to advance and protect the public health, safety, welfare, and quality of life of the Village by creating regulations for the installation and use of battery energy storage systems, with the following objectives:
 - (1) To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
 - (2) To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
 - (3) To mitigate the impacts of battery energy storage systems on environmental resources such as conservation areas, wildlife and other protected resources; and
 - (4) To create synergy between battery energy storage system development and the goals of the Village’s Comprehensive Plan.
- C. Applicability.
 - (1) The requirements of this section shall apply to all battery energy storage systems permitted, installed, or modified in the Village after the effective date of this section, excluding general maintenance and repair.
 - (2) Battery energy storage systems that have a valid building permit or have been constructed or installed prior to the effective date of this section shall not be required to meet the requirements of this section.
 - (3) Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this section.
- D. General requirements.
 - (1) A building permit shall be required for installation of all battery energy storage systems.
 - (2) All battery energy storage systems, all dedicated-use buildings, and all other buildings or structures that
 - 1) contain or are otherwise associated with a battery energy storage system and 2) are subject to the

Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Village Code.

- (3) For battery energy systems subject to site plan review, the Village shall require the applicant to establish an escrow account to recover expenses associated with engineering, environmental or legal services determined to be reasonably necessary in the processing of an application under this law.
- E. Tier 1 battery energy storage systems shall be permitted in all zoning districts, as an accessory use subject to the Uniform Code and the battery energy storage system permit, and shall be shown on plans submitted for the building permit application for the building containing the system. Tier 1 battery energy storage systems are exempt from site plan review.
 - (1) Battery energy storage systems for one- or two-family residential dwelling units shall not exceed an aggregate energy capacity of the following:
 - (a) Forty kWh within utility closets and storage or utility spaces.
 - (b) Eighty kWh in attached or detached garages and detached accessory structures.
 - (c) Eighty kWh on exterior walls.
 - (d) Eighty kWh outdoors on the ground.
 - (2) All outside Tier 1 battery energy storage systems shall only be installed in side or rear yards and meet the minimum lot size and standard setbacks in the zoning district for principal structures. Heights are limited to 6.5 feet for any external battery energy storage systems.
 - (3) All outside Tier 1 battery energy storage systems shall provide a fire safety compliance plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
 - (4) All outside Tier 1 battery energy storage systems shall not have an area greater than 225 square feet for a single energy storage system, and all systems in the aggregate shall not occupy more than 25% of the area of the required rear or side yard.
- F. Requirements for Tier 2 battery energy storage systems.
 - (1) Tier 2 Battery Energy Storage Systems are permitted through the issuance of a special permit by the Village Board of Trustees within the RA-40, RA-60, C-2 and LI zoning districts, and shall be subject to the Uniform Code and the site plan application requirements set forth in this Section.
 - (2) Applications for the installation of Tier 2 Battery Energy Storage System shall be reviewed by the Building Inspector or Village Engineer for completeness. Applicants shall be advised of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
 - (3) Site plan application. For the installation of Tier 2 battery energy storage systems, the following site plan requirements apply:
 - (a) Property lines and physical features, including roads, for the project site.
 - (b) Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees, access roads exterior lighting, signage, fencing, landscaping and screening vegetation or structures.

- (c) A screening and landscaping plan to show adequate measures to screen through landscaping, grading or other means so that views of the storage systems shall be minimized as reasonably practical and feasible from public roadways and adjacent properties.
- (d) Location of the battery energy storage system and setbacks from property lines.
- (e) A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all solar energy system components, if applicable, and should include applicable setback and other bulk and area standards.
- (f) A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.
- (g) Name, address, and contact information of the proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of a building permit.
- (h) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
- (i) Zoning district designation for the parcel(s) of land comprising the project site.
- (j) Commissioning plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, battery energy storage system commissioning shall be conducted by a New York State (NYS) licensed professional engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Building Inspector prior to final inspection and approval and maintained at an approved on-site location.
- (k) Fire safety compliance plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
- (l) Operation and maintenance manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information, and shall meet all requirements set forth in the Uniform Code.
- (m) Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- (n) Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS licensed professional engineer.
- (o) Emergency operations plan. A copy of the approved emergency operations plan shall be given to the system owner, the Fire Chief, and the Village Engineer or Building Inspector. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and

emergency responders. The emergency operations plan shall include the following information:

- [1] Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
 - [2] Procedures for inspection and testing of associated alarms, interlocks, and controls.
 - [3] Procedures to be followed in response to notifications from the battery energy storage management system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to Fire Department personnel for potentially hazardous conditions in the event of a system failure.
 - [4] Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the Fire Department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
 - [5] Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when a SDS is not required.
 - [6] Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
 - [7] Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
 - [8] Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
- (4) Special permit standards. In addition to the other special permit standards in this chapter, the following special permit standards shall apply for Tier 2 battery energy storage systems:
- (a) Bulk requirements. Tier 2 Battery Energy Storage Systems shall comply with the lot size, setbacks and height requirements of the underlying zoning district for principal structures.
 - (b) Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a 7-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
 - (c) Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. The screening shall not, however, interfere with the normal operation, ventilation or exhaust ports, or fire safety of the storage system. A covenant regarding the maintenance of any required screening shall be provided by the applicant.
- (5) Access. Vehicular access within the site shall be designed to minimize the extent of impervious materials and soil compaction and meet any applicable emergency access or safety requirements.
- (6) Utility lines and electrical circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

(7) Signage.

- (a) The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
- (b) As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- (8) Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties and shall minimize impacts on nocturnal animals where practicable.
- (9) Vegetation and tree-cutting. Areas within 10 feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees shall be governed by Chapter **208**, Trees, and should be minimized to the extent possible.
- (10) Noise. The noise generated from the battery energy storage systems, components, and associated ancillary equipment shall meet the requirements of Chapter **160**, Noise. Applicants may submit equipment and component manufacturers noise ratings to demonstrate compliance. The applicant may be required to provide operating sound pressure level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.
- (11) Conditions. The following shall be made conditions of all special permits issued for Tier 2 battery energy storage systems.
 - [1] Ownership changes. If the owner or operator of the battery energy storage system changes or the owner of the property changes, the special permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special permit, site plan approval, and decommissioning plan. A new owner or operator of the solar energy system shall notify the Village Engineer or Building Inspector in writing of such change in ownership or operator within 30 days of the ownership change. The special permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the Village Engineer or Building Inspector in the required timeframe. Reinstatement of a void special permit will be subject to the same review and approval processes for new applications under this chapter.
 - [2] Upon cessation of electricity generation of a battery energy storage system on a continuous basis for a period of one year, the Village may notify and instruct the owner or operator of the battery energy storage system to implement the decommissioning plan. The decommissioning plan must be completed within 12 months of notification.
 - [3] Lien. In the event of default of the owner or operator in the performance of removal of a battery energy storage system and/or complying with the requirements of the decommissioning plan, after proper notice, the Village shall be entitled to arrange for removal or decommissioning and restoration of the property in accordance with the decommissioning plan, and the cost of same incurred by the Village shall constitute a lien on the owner's real property.
- (12) Decommissioning.
 - (a) Decommissioning Plan. The applicant shall submit a decommissioning plan, developed in accordance

with the Uniform Code, to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:

- [1] A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
 - [2] Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
 - [3] The anticipated life of the battery energy storage system;
 - [4] The estimated cost of decommissioning and removal of the battery energy system, as well as all necessary site remediation or restoration and a description of how said estimate was determined;
 - [5] The method of ensuring that funds will be available for decommissioning and restoration;
- (b) The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
 - (c) A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.
 - (d) Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or bond payable to the Village, in a form approved by the Village Attorney for the removal of the battery energy storage system as well as all necessary site remediation or restoration, in an amount to be determined by the Village, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant.

G. Safety; system certification.

- (1) Battery energy storage systems and equipment shall be listed by a nationally recognized testing laboratory to UL 9540 (standard for battery energy storage systems and equipment) with subcomponents meeting each of the following standards as applicable:
 - (a) UL 1973 (standard for batteries for use in stationary, vehicle auxiliary power, and light electric rail applications);
 - (b) UL 1642 (standard for lithium batteries);
 - (c) UL 1741 or UL 62109 (inverters and power converters);
 - (d) Certified under the applicable electrical, building, and fire prevention codes as required;
 - (e) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations and safety standards may be used to meet system certification requirements.
- (2) Site access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the Fire Chief and, if the Tier 2 battery energy storage system is located in an ambulance district, the local ambulance corps.

- (3) Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

Section Two: Severability.

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section Three:

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.