

LOCAL LAW NO. ____ OF 2025 OF THE TOWN OF SCIPIO

**A LOCAL LAW AMENDING THE TOWN OF SCIPIO ZONING ORDINANCE TO
PROHIBIT TIER 2 AND LARGER BATTERY ENERGY STORAGE SYSTEMS**

Be it enacted by the Town Board of the Town of Scipio as follows:

SECTION 1. AUTHORITY.

This local law is adopted pursuant to Article IX of the New York State Constitution (§§ 2(c)(6) and (10)), Sections 10(1) and (7) of the New York Statute of Local Governments, Sections 261-263 of the Town Law and Section 10 of the Municipal Home Rule Law of the State of New York.

SECTION 2. PURPOSE & INTENT.

This amendment of the of the Town of Scipio Zoning Ordinance (the "Zoning Ordinance") to prohibit Tier 2 and larger Battery Energy Storage Systems is being adopted to advance and protect the public health, safety, welfare, and quality of life of the residents of the Town of Scipio by banning the installation and use of certain large (Tier 2) battery energy storage systems within town boundaries. The Town Board has recognized and acknowledged the Town needs to study and analyze many considerations that affect the preparation of local legislation to regulate battery energy storage systems. Thereafter, the Town has carefully and diligently studied regulations that would address the establishment, placement, construction, enlargement, and erection of Battery Energy Storage Systems and balanced these objectives with potential land use regulations for provisions to specifically regulate the same. Included in these considerations is the likelihood of chemical and electrical fires which connect into such systems and the inability of the Town and its limited fire response capabilities to adhere to and address these issues in a satisfactory and safe manner given the availability of equipment, resources, and training. Upon reflection of these risks and harms, the Town Board has determined that prohibiting the establishment, placement, installation, construction, and erection of certain battery energy storage systems town-wide is in the best interests of the Town.

SECTION 3. AMENDMENT OF CHAPTER 165 ("ZONING") TO AMEND §165-61 ("DEFINITIONS").

Article II, Section 2.02(A) of the Zoning Ordinance, titled "Definitions," is hereby amended by adding the following terms in correct alphabetical order:

"BATTERY/BATTERIES -- A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in personal household consumer products are excluded from these requirements.

BATTERY ENERGY STORAGE SYSTEM -- A rechargeable energy storage system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems and associated electrical equipment designed to store

energy 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, contained, or enclosed area, consisting 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, contained, or enclosed area.

CELL -- The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy."

SECTION 4. AMENDMENT OF ZONING ORDINANCE TO AMEND ARTICLE X ("SOLAR ENERGY SYSTEMS") AT SECTION 10.04(H).

Article X ("Solar Energy Systems"), Section 10.04(H) is hereby amended by deleting Subsection (H) in its entirety and replacing same with the following:

"(H) The application for any solar energy system shall specifically recite the use or nonuse of Batteries, their placement, capacity, and compliance with all existing New York State and federal rules and regulations. If Batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use, and when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations."

SECTION 5. AMENDMENT OF ZONING ORDINANCE TO AMEND ARTICLE X ("SOLAR ENERGY SYSTEMS") AT SECTION 10.17(A)(12).

Article X ("Solar Energy Systems"), Section 10.17(A)(12)" is hereby amended by deleting Subsection (H) in its entirety and replacing same with the following:

"(12) Specifically address: the useful lifespan of proposed solar facility and any storage Batteries; the current New York State and federal rules and regulations regarding placement thereof and disposal thereof at the end of their useful lifespan; together with plans for replacement of storage Batteries.

SECTION 6. AMENDMENT OF ZONING ORDINANCE TO PROVIDE FOR A NEW ARTICLE XX ("BATTERY ENERGY STORAGE SYSTEMS") AND A NEW SECTION 20.01 ("PROHIBITION OF TIER 2 AND LARGER BATTERY ENERGY STORAGE SYSTEMS").

The Zoning Ordinance is hereby amended by adding a new Article XX, titled "Prohibition of Tier 2 and Larger Battery Energy Storage Systems," to read in its entirety as follows:

"Article XX. Prohibition of Tier 2 and Larger Battery Energy Storage Systems

§20.01 Prohibition of Tier 2 and larger battery energy storage systems. Notwithstanding any other provision of this Chapter, Tier 2 Battery Energy Storage Systems and larger are hereby specifically prohibited from being erected, placed and/or sited within the jurisdictional limits of the Town of Scipio. Such prohibition is regardless of whether any proposed Tier 2 Battery Energy Storage System (or larger) is a primary (principal) use or an accessory use on any parcel within the Town. Any requests for a Tier 2 Battery Energy Storage System (or larger) will require use variance approval from the Town of Scipio pursuant to the requirements and procedures of Town Law §267-b(2)."

SECTION 7. ENFORCEMENT.

Any violation of this Local Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town of Scipio.

SECTION 8. SEVERABILITY.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

SECTION 9. EFFECTIVE DATE.

This Local Law shall be effective upon its filing with the New York Secretary of State.