

TOWN OF ANGELICA
ALLEGANY COUNTY, NEW YORK
RESOLUTION NO. 8-2026

RESOLUTION INTRODUCING PROPOSED LOCAL LAW NO. 1 OF 2026,
ACCEPTING THE SEQRA ENVIRONMENTAL ASSESSMENT FORM,
ESTABLISHING THE TOWN BOARD AS LEAD AGENCY FOR SEQRA
REVIEW,
REFERRING THE PROPOSED LOCAL LAW TO THE ALLEGANY COUNTY
PLANNING BOARD,
AND SETTING A PUBLIC HEARING

At a regular meeting of the Town Board of the Town of Angelica, Allegany County, New York, held at the Angelica Town Hall (Grange), 55 Park Circle, Angelica, New York, on July 13, 2026, at 7:00 p.m.

The following resolution was offered by Elynn Gordon and seconded by William Weaver.

WHEREAS, The Town Board of the Town of Angelica, with the assistance of the Town Attorney, has reviewed regulations governing Battery Energy Storage Systems (BESS);

WHEREAS, The Town and its Town Attorney have prepared Proposed Local Law No. 1 of 2026 (Exhibit A) establishing regulations governing Battery Energy Storage Systems within the Town;

WHEREAS, The proposed regulations are based upon the NYSERDA Model Battery Energy Storage System Local Law together with guidance from NYSERDA, the American Farmland Trust, and the New York State Department of Agriculture and Markets, while incorporating additional provisions addressing public safety, environmental protection, ongoing maintenance, and financial security for decommissioning;

WHEREAS, Adoption of the proposed Local Law may constitute a Type I Action under SEQRA pursuant to 6 NYCRR §617.4(b)(2);

WHEREAS, Part 1 of the Environmental Assessment Form (EAF), attached as Exhibit B, has been prepared;

WHEREAS, The proposed Local Law must be referred to the Allegany County Planning Board pursuant to General Municipal Law §239-m; and

WHEREAS, The proposed Local Law is subject to the notice and hearing requirements of Town Law §264.

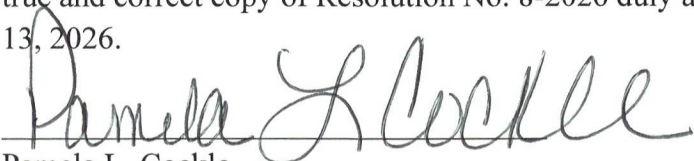
NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby introduces Proposed Local Law No. 1 of 2026 for consideration; and be it further

- RESOLVED, that pursuant to 6 NYCRR §617.6(b)(3)(i), the Town Board shall serve as Lead Agency for the SEQRA review of the Proposed Local Law;
- RESOLVED, that the Town Board accepts the Environmental Assessment Form and authorizes the Town Supervisor to execute the same;
- RESOLVED, that the Town Supervisor is directed to refer the Proposed Local Law, Environmental Assessment Form, and supporting materials to the Allegany County Planning Board pursuant to General Municipal Law §239-m;
- RESOLVED, that contingent upon receipt of the Allegany County Planning Board review, a Public Hearing on Proposed Local Law No. 1 of 2026 and the related SEQRA review is scheduled for Monday, August 24, 2026, at 7:00 p.m., at the Angelica Town Hall (Grange);
- RESOLVED, that the Town Clerk shall publish notice of the Public Hearing in the Hornell Evening Tribune & Olean Times Herald and post notices on the Town sign board and official Town website at least ten (10) days prior to the hearing;
- RESOLVED, that the Town Clerk shall provide notice as required by Town Law §264 to the Town Clerks of Allen, Caneadea, Belfast, Friendship, Amity, Ward, West Almond, and Birdsall, the Village Clerks of Angelica and Belmont, and the Clerk of the Allegany County Legislature.

Board Member	Vote	
Supervisor Girard Kelly	☒	NAY
Councilman William Weaver	☒	
Councilman Elwyn Gordon	☒	
Councilman Jeremy Metatos	☒	
Councilman Brian Jones	☒	

AYES: 5 NAYS: 0 ABSENT: 0 ABSTAIN: 0

I, Pamela L. Cockle, Town Clerk of the Town of Angelica, certify that the foregoing is a true and correct copy of Resolution No. 8-2026 duly adopted by the Town Board on July 13, 2026.


Pamela L. Cockle

Town Clerk

(seal)

Battery Energy Storage Systems

1. Purpose.

The Town Board of the Town of Angelica adopts this Battery Energy Storage Systems (BESS) Law to regulate the placement of battery energy storage systems to protect the public safety, health, and welfare; to provide a regulatory structure that promotes the protection of the Town of Angelica residents; to minimize adverse impacts on the Town's character, environment, economy, and unique resources, including, but not limited to, waterways, scenic ridge lines, parks and wildlife management areas, and prime farmland.

2. Authority.

This Battery Energy Storage Systems Local Law is adopted pursuant to §261-263 of the Town Law for the State of New York, which authorizes the Town to adopt provisions that advance and protect the health, safety, and welfare of the community.

3. Findings, Home Rule Authority and Statement of Municipal Interest.

A. Findings

The Town Board of the Town of Angelica hereby finds and determines that Battery Energy Storage Systems ("BESS") may present significant impacts to the public health, safety, welfare, environment, emergency response capabilities, agricultural resources, water resources, infrastructure, property values and community character of the Town.

The Town Board further finds that:

1. Battery Energy Storage Systems have experienced documented incidents involving thermal runaway, fire, explosion, toxic gas releases, hazardous material incidents, environmental contamination and prolonged emergency response operations in locations throughout the United States and internationally.
2. The Town of Angelica relies primarily upon volunteer emergency service providers and limited local emergency response resources. Specialized training, equipment, planning and financial resources may be required to adequately prepare for and respond to Battery Energy Storage System incidents.
3. The Town contains significant agricultural lands, groundwater resources, streams, wetlands, drinking water supplies, rural residential neighborhoods, historic resources, and environmentally sensitive areas that warrant protection from potential adverse impacts associated with Battery Energy Storage Systems.

4. The Town Board recognizes that Battery Energy Storage Systems are evolving technologies and that standards, best practices, and safety requirements continue to develop. Accordingly, local oversight and periodic review are necessary to ensure ongoing protection of the public.
5. The Town has a substantial interest in ensuring that Battery Energy Storage Systems are properly sited, designed, constructed, operated, maintained, monitored and decommissioned in a manner that protects the public health, safety and welfare and minimizes adverse impacts upon neighboring properties and community resources.
6. The Town Board finds that the costs associated with the review, inspection, monitoring, enforcement, emergency preparedness, and decommissioning of Battery Energy Storage Systems should not be borne by Town taxpayers.
7. The Town Board finds that local regulation of Battery Energy Storage Systems is necessary to protect residents, property owners, taxpayers, emergency responders, environmental resources, agricultural operations, and the overall character and quality of life within the Town.

B. Home Rule Authority

This Local Law is adopted pursuant to:

1. Article IX of the Constitution of the State of New York;
2. Municipal Home Rule Law §10;
3. Town Law §§261, 262, 263, and all other applicable provisions of the Town Law of the State of New York;
4. The authority of the Town to protect and promote the health, safety and welfare of its residents and property owners;
5. The authority of the Town to regulate land use and protect environmental, agricultural and community resources; and
6. Any and all other powers and authority granted to the Town under New York State law.

The Town Board intends that this Local Law be interpreted and applied in a manner that provides the maximum protection and regulatory authority permitted under New York law.

C. Relationship to Other Laws

Compliance with any federal, state, county, agency, utility, industry or third-party standard, regulation, permit, guidance document, certification, recommendation or approval shall not relieve any person from compliance with the requirements of this Local Law.

Where the provisions of this Local Law impose greater restrictions or more stringent requirements than those imposed by any other law, regulation, permit, guideline, code, standard or approval, the provisions of this Local Law shall govern to the fullest extent permitted by law.

D. No Waiver of Municipal Authority

Nothing contained herein shall be construed as limiting, waiving, impairing, or surrendering any authority of the Town of Angelica to review, condition, deny, regulate, inspect, monitor, enforce, amend, repeal, or otherwise exercise its lawful authority over Battery Energy Storage Systems and related facilities as authorized by New York law.

E. Statement of Municipal Interest

The Town Board declares that the protection of public health, public safety, emergency responders, drinking water resources, agricultural lands, environmental resources, property owners and taxpayers constitutes a substantial governmental interest of the Town of Angelica. The provisions of this Local Law are intended to advance and protect those interests and shall be liberally construed to accomplish those purposes.

4. Definitions.

As used in this law and the permit process, the following terms shall have the meanings indicated:

ANSI — American National Standards Institute.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM — An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

BATTERY(IES) — 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 article, batteries utilized in consumer products are excluded from these requirements.

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

COMMISSIONING — A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

DECOMMISSIONING — A systematic process that provides a narrative and plan for the removal/proper disposal and reclamation of a battery energy storage system, and its site, at the end of its useful life and/or as the result of damage by fire or other event.

DEDICATED-USE BUILDING — A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the New York State Building Code, and complies with the following:

- A. The building's only use is battery energy storage, energy generation, and other electrical-grid-related operations. No other occupancy types are permitted in the building.
- B. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- C. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage systems, provided the following:
 - 1. The areas do not occupy more than 10% of the building area of the story in which they are located.
 - 2. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

ENERGY CODE — The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

ENERGY STORAGE SYSTEM — One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone twelve-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:

- 1. Tier 1 battery energy storage systems have an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
- 2. Tier 2 battery energy storage systems have an aggregate energy capacity greater than 600 kWh or are comprised of more than one storage battery

technology in a room or enclosed area.

FIRE CODE — The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

LOT COVERAGE — Shall include the total square footage of the perimeter of all of the dedicated-use buildings and/or structures housing a battery energy storage system, inclusive of all interior spaces between the dedicated use buildings and/or structures housing a battery energy storage system, in addition to driveways and service roads (paved or stone), and all accessory equipment, buildings and structures.

MONITORING WELLS — a specialized, engineered well installed to sample groundwater, measure water levels and analyze subsurface conditions.

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL) — U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC — National Electric Code.

NFPA — National Fire Protection Association.

NON-DEDICATED-USE BUILDING — All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

NONPARTICIPATING PROPERTY — Any property that is not a participating property.

NONPARTICIPATING RESIDENCE — Any residence located on nonparticipating property.

OCCUPIED COMMUNITY BUILDING — Any building in Occupancy Group A, B, E, I, R, as defined in the New York State Building Code, including but not limited to schools, colleges, day-care facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

PARTICIPATING PROPERTY — A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate), regardless of whether any part of a battery energy storage system is constructed on the property.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

5. Applicability.

- A. The requirements of this article shall apply to all battery energy storage systems permitted, installed, or modified in the Town of Angelica after the effective date of this article, excluding general maintenance and repair.
- B. Battery energy storage systems constructed or installed prior to the effective date of this article shall not be required to meet the requirements of this article.
- C. 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 article.

6. General requirements.

- A. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.
- B. All battery energy storage systems, all dedicated-use buildings, and all other buildings or structures that contain or are otherwise associated with a battery energy storage system and 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 and the Energy Code.

7. Requirements for Tier 1 battery energy storage systems.

Tier 1 battery energy storage systems shall be permitted on all properties, and are subject to General Requirements section of this local law, and are exempt from special permit requirements but subject to site plan review.

8. Requirements for Tier 2 battery energy storage systems.

Tier 2 Battery Energy Storage Systems or those not qualifying as Tier 1 must include only batteries or energy storage systems of non-flammable/ non-explosive materials.

Tier 2 Battery Energy Storage Systems are permitted through the issuance of a special use permit within the Town of Angelica and shall be subject to the Uniform Code and the site plan application requirements set forth in this Section.

- A. **Applications for the installation of Tier 2 Battery Energy Storage System shall be:**
 - 1. reviewed by the Code Enforcement Officer for completeness. An application shall be complete when it addresses all matters listed in this

Local Law including, but not necessarily limited to, (i) compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and (ii) matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, and Permit Time Frame and Abandonment. Applicants shall be advised within 30 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

2. subject to a public hearing to hear all comments for and against the application. The Angelica Town Board shall have a notice printed in a newspaper of general circulation in the Town at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 500 feet of the property at least 20 days prior to such a hearing. Proof of mailing shall be provided to the Town Board at the public hearing.
3. referred to the Allegany County Planning Department pursuant to General Municipal Law, if required.
4. upon closing of the public hearing, the Town Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Town Board and Applicant.

B. Utility Lines and Electrical Circuitry:

1. 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.

C. Signage:

1. 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.
2. 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.

D. Lighting:

1. Exterior 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.

E. Vegetation and tree-cutting:

1. Areas within 15 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 should be minimized to the extent possible and in no event shall any trees, plants, shrubs be removed that are considered rare or endangered.

F. Noise:

1. The 1 hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 45 dBA as measured at the outside wall of any non-participating residence or occupied community building. Applicants may submit equipment and component manufacturer's 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. The Town shall measure noise levels from time to time with or without notice.

G. Monitoring Wells:

1. Should monitoring wells be required by the town, NYS DEC or any other agency due to the construction of the BESS facility, the applicant/owner/operator will be responsible for all associated costs, including the installation through the decommissioning of the monitoring well(s).

H. State Environmental Quality Review Act (SEQRA):

1. All applications for Battery Energy Storage Systems subject to review under this Local Law shall be reviewed in accordance with the New York State Environmental Quality Review Act (SEQRA), Article 8 of the

Environmental Conservation Law, and its implementing regulations found at 6 NYCRR Part 617.

2. No Special Use Permit, Site Plan Approval, Building Permit, or other local approval shall be issued until all applicable SEQR requirements have been satisfied.
3. The Town Board may require the applicant to provide environmental studies, technical reports, expert analyses, modeling, or other information deemed necessary to evaluate potential environmental impacts, including but not limited to:
 - a. Fire and explosion risk;
 - b. Thermal runaway events;
 - c. Toxic gas releases and off-gassing;
 - d. Emergency response capabilities;
 - e. Noise impacts;
 - f. Visual impacts and community character;
 - g. Stormwater and drainage impacts;
 - h. Wetlands, streams, groundwater and drinking water resources;
 - i. Agricultural resources and farmland;
 - j. Wildlife habitat and ecological resources;
 - k. Traffic and road use impacts;
 - l. Cumulative impacts associated with the proposed facility and related infrastructure.
4. The Town may retain independent engineers, environmental consultants, fire protection engineers, legal counsel, or other qualified experts to assist in the review of the application. All reasonable costs incurred by the Town for such professional review shall be reimbursed by the applicant through an escrow account established in a form acceptable to the Town.
5. Any mitigation measures identified through the SEQRA process shall be incorporated into the conditions of approval and shall be enforceable as conditions of the Special Use Permit and Site Plan Approval.

9. Professional Review Escrow.

- A. The Town Board may retain independent professional consultants, including but not limited to engineers, fire protection engineers, environmental consultants, planners, hydrogeologists, attorneys, noise consultants, and other experts deemed necessary to assist in review of any Battery Energy Storage System application.
- B. The applicant shall reimburse the Town for all reasonable costs incurred in connection with such professional review.

- C. Prior to commencing review, the Town may require the applicant to establish and maintain an escrow account in an amount determined by the Town Board sufficient to cover anticipated professional review costs.
- D. If escrow funds become depleted during review, the applicant shall replenish the escrow account upon request of the Town. Failure to replenish the escrow account may result in suspension of application review.
- E. Any unused escrow funds shall be returned to the applicant following final action on the application and payment of all outstanding review expenses.

10. Emergency Operations Plan.

- A. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. 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 must 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 an 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.
- B. The emergency operations plan shall remain in effect for the operational life of the facility and shall be updated as necessary to reflect changes in technology, emergency response protocols, applicable codes, or operational conditions.

11. Fire Department and Emergency Response Preparedness Requirements.

- A. The applicant shall coordinate with the Angelica Fire Department, Allegany County Emergency Management, and all applicable mutual aid departments during project review and prior to operation of the facility.
- B. The applicant shall provide documented evidence, satisfactory to the Town Board, Code Enforcement Officer, and Fire Department, demonstrating that emergency responders possess adequate training, staffing, equipment, water supply access, and operational capability to respond to and manage battery energy storage system emergencies, including, but not limited to, thermal runaway events, toxic vapor release, explosions, off-gassing incidents and multi-day fires.
- C. At the applicant's expense, the applicant shall provide or fund:
 1. BESS-specific firefighter and emergency responder training prior to operation of the facility and annually thereafter;
 2. Joint emergency response drills involving local and mutual aid departments;
 3. Gas detection equipment, thermal imaging equipment, specialized protective equipment and other equipment deemed reasonably necessary by the Fire Department or Town;
 4. Preparation and maintenance of a pre-incident emergency response plan to be distributed to all responding agencies;
 5. Independent review of emergency response preparedness by a qualified

third-party fire protection engineer if requested by the Town.

- D. The Town Board may require written confirmation from the Angelica Fire Department and mutual aid agencies regarding emergency preparedness concerns identified during review of the application.
- E. All costs associated with emergency preparedness, training, drills, consultants, equipment acquisition, maintenance, and response planning shall be borne solely by the applicant or operator and shall not become a financial burden upon the Town of Angelica or volunteer emergency service providers.
- F. Failure to maintain required emergency preparedness measures shall constitute a violation of this Local Law and may result in permit suspension or revocation.

12. Community Host Agreement.

- A. As a condition of approval, the Town Board may require the applicant to enter into a Community Host Agreement with the Town.
- B. The Agreement may include: annual host community payments, road use and repair obligations, emergency response funding, fire department funding, property value protection programs, environmental monitoring, annual compliance reporting, community benefit programs and reimbursement of Town expenses.
- C. The Agreement shall be binding upon successors and assigns.
- D. Failure to comply shall constitute a violation of this Local Law.

13. Good Neighbor Agreement.

- A. The Town Board may require a Good Neighbor Agreement.
- B. The Agreement may include: community liaison designation, complaint resolution procedures, public contact information, annual community meetings, response timelines for complaints, operating practices to minimize impacts.
- C. The Agreement shall be binding upon successors and assigns.
- D. Failure to comply shall constitute a violation of this Local Law.

14. Decommissioning.

- A. Decommissioning Plan. The applicant shall submit a decommissioning plan along with the initial application, 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 decommissioning costs and how said estimate was determined;
5. The method of ensuring that funds will be available for decommissioning and restoration;
6. The method by which the decommissioning cost will be kept current;
7. 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, soil to a minimum of 4 feet, 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
8. 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.
9. Decommissioning Fund. The owner and/or operator of the energy storage system shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town of Angelica for the removal of the battery energy storage system, in an amount to be determined by the Town, 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.

15. Fire Department Cost Recovery.

- A. The owner/operator shall reimburse the Town and responding emergency agencies for costs associated with: fire suppression, hazardous materials response, monitoring activities, environmental remediation, specialized

equipment, mutual aid responses, emergency management operations.

- B. Cost recovery shall be in addition to any other penalties or remedies.
- C. The Town may require financial security to guarantee payment.

16. Site Plan Application Requirements.

For a Tier 2 Battery Energy Storage System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

- A. Property lines and physical features, including roads, for and to the project site.
- B. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- C. A 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.
- D. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters, fire suppression and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- E. Name, address, and contact information of 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 building permit.
- F. 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 energy storage system.
- G. Land use designation for the parcel(s) of land comprising the project site.
- H. 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 approved by the Town (but not unreasonably withheld) 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 Code Enforcement Officer prior to final inspection and approval and maintained at an approved on-site location.

- I. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems ensure no fires or explosions, and are in compliance with the Uniform Code.
- J. 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.
- K. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Allegany County Planning Board.
- L. Prior to the issuance of the building permit or final approval by the Town Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.
- M. Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. 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 must 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 an 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.

N. Special Use Permit Standards.

1. Setbacks. Tier 2 Battery Energy Storage Systems shall comply with twice the setback requirements of the underlying district for principal structures. Any structures must be dedicated use buildings only.
2. Height. Tier 2 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the existing town regulations.
3. Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a 10 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.
4. 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 and not interfering with ventilation or exhaust ports.

17. Special Use Permit Fees.

A. Application Fee

An application for a Tier 3 Battery Energy Storage System (BESS) shall be accompanied by a non-refundable application fee of Ten Thousand Dollars (\$10,000.00), plus One Thousand Dollars (\$1,000.00) for each megawatt (MW) of rated energy storage capacity in excess of five (5) MW, up to a maximum non-refundable application fee of Fifty Thousand Dollars (\$50,000.00).

The application fee is intended to offset the Town's administrative costs associated with receiving, processing, coordinating, and administering the application, including but not limited to record management, public notices, public hearings, administrative staff time, meeting preparation, document management, and other municipal administrative expenses.

The application fee shall not be credited toward any escrow account or other required deposits and shall not be refundable regardless of whether the application is approved, denied, withdrawn, or abandoned.

Examples:

- Up to 5 MW: \$10,000
- 10 MW: \$15,000
- 20 MW: \$25,000
- 45 MW or greater: \$50,000 (maximum application fee)

The Town Board may, by resolution, amend the application fees, inspection fees, administrative fees, and escrow amounts established under this Section from time to time to reflect changes in administrative costs, professional review expenses, inflation, and the complexity of Battery Energy Storage System applications, provided such fees remain reasonably related to the Town's actual costs of administration, review, inspection, and enforcement.

B. Professional Review Escrow

In addition to the required application fee, the applicant shall establish and maintain an escrow account with the Town in the initial amount of Fifty Thousand Dollars (\$50,000.00). The escrow shall reimburse the Town for all reasonable and necessary expenses incurred in reviewing, evaluating, and processing the application.

- Engineering review
- Planning and zoning consultation
- Legal review and drafting
- Environmental review
- Fire protection and emergency response consultation
- Electrical and battery safety consultation
- Financial, appraisal, or economic consultation
- Independent technical peer review
- Inspection services
- Any other professional services deemed reasonably necessary by the Town Board, Planning Board, or Code Enforcement Officer

C. Escrow Replenishment

If the escrow account balance falls below Ten Thousand Dollars (\$10,000.00), the Town shall notify the applicant in writing. The applicant shall replenish the escrow account to Fifty Thousand Dollars (\$50,000.00) within fifteen (15) calendar days. Failure to replenish the escrow may result in suspension of review, permits, approvals, or inspections until the escrow account has been restored.

D. Additional Escrow

If the Town determines that the initial escrow is insufficient to cover the actual costs of review, inspection, monitoring, or enforcement, the applicant shall deposit additional funds as reasonably requested by the Town before further review or inspections continue.

E. Refund of Unused Funds

Any remaining escrow balance shall be refunded to the applicant after final action on the application, completion of all inspections, payment of all outstanding professional invoices, and satisfaction of all obligations.

F. Annual Compliance Inspection Fee

Each operational Tier 3 Battery Energy Storage System shall be subject to an annual compliance inspection. The owner or operator shall pay an annual inspection fee of Five Thousand Dollars (\$5,000.00), or the Town's actual cost of inspection, whichever is greater. The Town may retain independent engineers, fire protection consultants, electrical consultants, environmental consultants, or other qualified professionals as necessary to conduct or assist with the inspection, and the owner or operator shall reimburse the Town for all reasonable costs associated with the annual inspection.

G. Modifications and Ownership Transfers

Applications for substantial modifications shall be accompanied by a Two Thousand Five Hundred Dollar (\$2,500.00) application fee and any additional escrow determined necessary by the Town.

Transfers of ownership shall require a One Thousand Dollar (\$1,000.00) administrative review fee and documentation demonstrating that all permits, financial security, insurance, decommissioning obligations, and operational responsibilities remain in full force and effect.

H. No Cost to Taxpayers

Under no circumstances shall the Town of Angelica or its taxpayers be responsible for any costs associated with the review, permitting, inspection, monitoring, enforcement, emergency preparedness, or decommissioning oversight of a Battery Energy Storage System. All such costs shall be borne solely by the applicant, owner, or operator.

18. Ownership Changes.

1. If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. The seller or operator of the battery energy storage system shall notify the Code Enforcement Officer of such change in ownership at least 60 days prior to sale and include qualifications of buyer.
2. The special use 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 Code Enforcement Officer in the required timeframe including a signed and countersigned agreement that the buyer

is taking over. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Local Law.

19. Enforcement and Penalties.

Any violation of this Local Law may be enforced by the Town through all remedies available under applicable law, including permit suspension or revocation, fines, injunctive relief, or other lawful enforcement action.

20. Periodic Review and Updates.

1. The Town Board may periodically review this Local Law to address changes in Battery Technology, Fire protection standards, state and federal regulations, emergency response practices and Industry Best Practices.
2. The Town Board may amend this Local Law by resolution and adoption of a local law in accordance with New York State law.

21. Applicability.

- A. The requirements of this local law shall apply to all BESS permitted, installed, or modified in the Town after the effective date of this local law, excluding general maintenance and repair.
- B. BESS constructed or installed prior to the effective date of this local law shall not be required to meet the requirements of this local law.
- C. All BESS shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards.

22. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof.

23. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York in accordance with applicable law.