

Town of Grand Island – Regular Meeting #14

A regular meeting of the Town Board of Grand Island, New York was held at the Town Hall, 2255 Baseline Rd., Grand Island, NY at 8:00p.m. on the 3rd of August 2026.

Present:	Peter J. Marston	Supervisor
	Thomas A. Digati	Councilman
	Daniel F. Kilmer	Councilman
	Jose A. Garcia	Councilman
	Rhonda G. Diehl	Councilwoman
	Karen M. Cooney	Deputy Town Clerk
	Peter C. Godfrey	Town Attorney

Supervisor Peter J. Marston called the meeting to order at 8:00p.m.
Pastor Kevin Slough from Trinity Church Grand Island gave the Invocation.
Councilman Thomas A. Digati led the Pledge of Allegiance.

PROCLAMATION:

- National Airborne Day – August 16, 2026

PUBLIC COMMENTS:

This is an opportunity for residents to comment on any matter regarding the meeting agenda items only.

Speakers: Alice Gerard, Paula Sciuk, Lauren Hall,
Kristen Cascio

PUBLIC HEARING:

Local Law Intro #4 of 2026 – Amend Chapter 386 of the Town Code – Vehicles, Motor Driven – to Include E-Bikes and Scooters – CANCELLED – TO BE RESCHEDULED A

A motion was made by Councilman Garcia, seconded by Supervisor Marston to set a Public Hearing for Monday, August 24, 2026, at 8:00p.m. to hear anyone who wants to comment on Local Law Intro #4 of 2026 – Amend Chapter 386 of the Town Code – Vehicles, Motor Driven – to Include E-Bikes and Scooters

APPROVED Ayes 5 Digati, Kilmer, Garcia, Diehl, Marston
 Noes 0

MINUTES:

A motion was made by Councilman Garcia, seconded by Councilman Kilmer to approve Minutes of Workshop Meeting #17, July 6, 2026, Minutes of Workshop Meeting #18, July 7, 2026, Minutes of Workshop Meeting #19, July 20, 2026, and Minutes of Regular Meeting #13, July 20, 2026.

APPROVED Ayes 5 Digati, Kilmer, Garcia, Diehl, Marston
 Noes 0

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CONSENT AGENDA:

1. Golden Age Center – Facility Usage – May 2026
2. Meeting Minutes – Board of Ethics – June 4, 2025
3. Meeting Minutes – Board of Architectural Review – June 16, 2026
4. Meeting Minutes – Conservation Advisory Board – June 25, 2026
5. Meeting Minutes – Zoning Board of Appeals – June 4, 2026

A motion was made by Councilman Garcia, seconded by Councilman Kilmer to approve the consent agenda as distributed.

APPROVED Ayes 5 Digati, Kilmer, Garcia, Diehl, Marston
 Noes 0

COMMUNICATIONS – TOWN BOARD:

SUPERVISOR – PETER J. MARSTON:

Monthly Supervisor's Report – June 2026

The Supervisor reported Cash Balance-Operating A/C of \$5,671,625 on June 1, 2026

Total Receipts of \$2,446,372

Total Disbursements of \$2,890,652

Operating A/C Interest \$10,604

Operating A/C Balance \$5,237,948

Investment Interest \$24,621

Investment Balance \$10,550,166

Total Cash Balance as of June 30, 2026, \$15,788,114

No action by the Town Board.

DEC/EPA Request Authorization Approval – Radiological Assessments:

A motion was made by Councilman Digati, seconded by Councilman Kilmer to authorize the Supervisor to sign any permissions for the New York State Department of Environmental Conservation (DEC) or EPA to inspect Town-owned or Town-controlled properties the DEC/EPA deem areas of concern.

APPROVED Ayes 5 Digati, Kilmer, Garcia, Diehl, Marston
 Noes 0

COUNCILWOMAN – RHONDA G. DIEHL:

Authorize Supervisor to Execute – NYSDOT PERM-1 Undertaking

A motion was made by Councilwoman Diehl, seconded by Councilman Digati to authorize the Town Supervisor to sign the NYSDOT PERM-1 Undertaking and that the Town Board adopt the following resolution:

WHEREAS, the Town of Grand Island from time to time performs work within New York State highway right-of-way or uses such roadways for special events and/or parades, requiring permits from the New York State Department of Transportation (NYSDOT); and

WHEREAS, NYSDOT requires the execution of a PERM-1 Undertaking as a condition of issuing such permits;

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NOW, THEREFORE, BE IT RESOLVED that the Town of Grand Island Town Board hereby authorizes and directs the Supervisor to execute the NYSDOT PERM-1 Undertaking and any related documents on behalf of the Town of Grand Island; and

BE IT FURTHER RESOLVED, that this authorization shall remain in effect until revoked or amended by the governing board.

APPROVED Ayes 5 Digati, Kilmer, Garcia, Diehl, Marston
 Noes 0

COMMUNICATIONS – OTHER TOWN OFFICIALS:

CODE ENFORCEMENT:

Special Use Permit Renewal – Tops Express, 2130 Grand Island Boulevard – Operate a Convenience Store with Gas Pumps in a Central Business District

A motion was made by Councilman Garcia, seconded by Councilman Kilmer to renew the Special Use Permit for Tops Express, 2130 Grand Island Boulevard – Operate a Convenience Store with Gas Pumps in a Central Business District. The site has been inspected, and it is unchanged.

APPROVED Ayes 5 Digati, Kilmer, Garcia, Diehl, Marston
 Noes 0

Special Use Permit Renewal – Sharon and Calvin Kern, 2905 Staley Road – Bed & Breakfast

A motion was made by Councilman Garica, seconded by Councilman Digati to renew the Special Use Permit for Sharon and Calvin Kern, 2905 Staley Road – Bed & Breakfast. The site has been inspected, and it is unchanged.

APPROVED Ayes 5 Digati, Kilmer, Garcia, Diehl, Marston
 Noes 0

REPORT OF THE AUDIT COMMITTEE:

A motion was made by Councilman Garcia, seconded by Councilwoman Diehl to pay Vouchers #153350 - #153457

General	\$ 89,026.75
Highway	\$ 13,737.55
Sewer	\$ 54,314.38
Water	\$ 88,281.12
Trust & Agency	\$ 41.00
Capital Fund	\$244,769.13
Garbage	<u>\$170,470.17</u>
Total	\$660,640.10

APPROVED Ayes 5 Digati, Kilmer, Garcia, Diehl, Marston
 Noes 0

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UNFINISHED BUSINESS:

Local Law Intro #5 of 2025 – Battery Energy Storage System Law

A. Adopt EAF Parts 2 & 3 and SEQRA Negative Declaration – Proposed Local Law Intro #5 of 2025 – Battery Energy Storage Systems Law

A motion was made by Supervisor Marston, seconded by Councilman Digati to adopt the following Resolution adopting a Negative Declaration of Environmental Significance for Proposed Local Law Intro #5 of 2025 – Battery Energy Storage Systems Law Under SEQRA:

WHEREAS, on October 20, 2025, the Town Board of the Town of Grand Island (the "Town Board") introduced Proposed Local Law Intro. #5 of 2025, entitled "Battery Energy Storage Systems Law" (the "Proposed Local Law"), for the purpose of establishing comprehensive regulations governing the siting, design, construction, operation, maintenance, and decommissioning of Battery Energy Storage Systems within the Town; and

WHEREAS, the Town Board determined that it is in the best interest of the Town to consider adoption of a local law to regulate the siting, design, and operation of battery energy storage systems in order to protect the health, safety, and welfare of residents while accommodating the appropriate development of renewable energy storage facilities, and

WHEREAS, the Town of Grand Island's current law does not adequately meet the Town's objectives, which includes siting for Battery Energy Storage Systems and

WHEREAS, on or about October 20, 2025, the Town Board of the Town of Grand Island referred the Local Law to the Erie County Department of Environmental and Planning pursuant to GML §239-m, and

WHEREAS, the Erie County Department of Environmental and Planning did not timely respond; and

WHEREAS, the Town Board adopted a Resolution on October 20, 2025, which classified the Local Law as a Type I action under the New York State Environmental Quality Review Act ("SEQRA") and declared its intent to act as lead agency, and

WHEREAS, the Town Board has adopted a Full Environmental Assessment Form ("FEAF") Part 1 dated October 20, 2025, and has prepared Parts 2 and 3 which is attached hereto, and

WHEREAS, the Town Board held a public hearing on July 20, 2026 and received comments on the proposed local law; and

WHEREAS, The Town Board has considered the content of the proposed Local law, the FEAF, communications from interested agencies, and

WHEREAS, The Town Board has considered any relevant public input, and

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WHEREAS, the Town Board has thoroughly analyzed the relevant concerns discussed in the attached negative declaration of environmental significance, and has determined that no significant adverse environmental impacts will result from the proposed Local Law, and

NOW, THEREFORE, the Town Board declares itself lead agency for purposes of the Action.

AND THEREFORE, the Town Board hereby finds that enactment of the proposed Local Law will not have any significant adverse impacts on the environment.

AND THEREFORE, the Town Board further resolves to adopt a negative declaration of environmental significance with respect to the adoption of the proposed Local Law.

AND THEREFORE, the Town Board hereby adopts the attached negative declaration of environmental significance and incorporates it herein and authorizes the Supervisor to sign the same.

AND THEREFORE, the Town Board directs the submission of the negative declaration of environmental significance to be published to the Environmental Notice Bulletin.

APPROVED Ayes 5 Digati, Kilmer, Garcia, Diehl, Marston
 Noes 0

B. Adopt LWRP Consistency Findings – Proposed Local Law Intro #5 of 2025 – Battery Energy Storage Systems Law

A motion was made by Councilman Digati, seconded by Councilwoman Diehl to adopt the following Resolution adopting Local Waterfront Revitalization Program (LWRP) Consistency Findings for Proposed Local Law Intro #5 of 2025 – Battery Energy Storage Systems Law:

WHEREAS, on October 20, 2025, the Town Board of the Town of Grand Island (the "Town Board") introduced Proposed Local Law Intro. #5 of 2025, entitled "Battery Energy Storage Systems Law" (the "Proposed Local Law"), for the purpose of establishing comprehensive regulations governing the siting, design, construction, operation, maintenance, and decommissioning of Battery Energy Storage Systems within the Town;

WHEREAS, since its introduction, the Proposed Local Law has been the subject of an extensive legislative review process, including multiple Town Board work sessions; joint meetings of the Town Board with the Planning Board, Conservation Advisory Board, and Agricultural Advisory Board; review and recommendations from each of those advisory boards; referral to the Erie County Department of Environment and

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Planning pursuant to General Municipal Law §239-m; review under the New York State Environmental Quality Review Act (SEQRA); review under the Town's Local Waterfront Revitalization Program (LWRP); and duly noticed public hearings held on May 18, 2026 and July 20, 2026;

WHEREAS, throughout this legislative process, the Town Board received and carefully considered comments and recommendations from the Planning Board, Conservation Advisory Board, Agricultural Advisory Board, members of the public, property owners, renewable energy developers, technical consultants, and other interested stakeholders, and incorporated numerous revisions into the Proposed Local Law in response to those comments and recommendations, resulting in a revised regulatory framework that balances the need to protect the public health, safety, and welfare; preserve the Town's natural resources, agricultural resources, waterfront resources, and community character; and accommodate appropriately sited Battery Energy Storage Systems;

WHEREAS, the Town of Grand Island has adopted a Local Waterfront Revitalization Program ("LWRP"), approved by the New York State Secretary of State pursuant to Article 42 of the Executive Law, and the Town's Waterfront Consistency Review Law requires that discretionary actions within the designated Coastal Area be undertaken in a manner consistent, to the maximum extent practicable, with the policies and purposes of the LWRP;

WHEREAS, adoption of the Proposed Local Law constitutes an action subject to review under the Town's Waterfront Consistency Review Law and the Local Waterfront Revitalization Program;

WHEREAS, a Coastal Assessment Form was prepared in connection with the Proposed Local Law identifying the action as the adoption of a town-wide Battery Energy Storage Systems Law and evaluating the consistency of the Proposed Local Law with the policies of the Town's Local Waterfront Revitalization Program;

WHEREAS, Section 5(B)(5) of the Proposed Local Law expressly requires that the siting of all Battery Energy Storage Systems conform to the Town of Grand Island Local Waterfront Revitalization Program, thereby ensuring that any future Battery Energy Storage System proposed within the Town's designated Coastal Area will remain subject to project-specific waterfront consistency review, in addition to all other applicable local, state, county, and federal approvals;

WHEREAS, the Proposed Local Law was referred to the Erie County Department of Environment and Planning pursuant to General Municipal Law §239-m, and the Erie County Department of Environment and Planning did not report its recommendation within the statutory review period; therefore, pursuant to General Municipal Law §239-m, the Town Board may proceed to final action on the Proposed Local Law;

WHEREAS, the Town Board has reviewed the Proposed Local Law, the Coastal Assessment Form, the recommendations of the Planning Board, Conservation Advisory

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Board, and Agricultural Advisory Board, all written and oral public comments, and the policies and purposes of the Town's Local Waterfront Revitalization Program, and has determined that the Proposed Local Law, as revised through the legislative process, is consistent, to the maximum extent practicable, with the policies and purposes of the Local Waterfront Revitalization Program.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby adopts the following findings:

1. The Proposed Local Law is legislative in nature and establishes a comprehensive regulatory framework governing the future siting, design, construction, operation, maintenance, and decommissioning of Battery Energy Storage Systems throughout the Town. It does not approve, authorize, or commit the Town to any site-specific Battery Energy Storage System or development within the Coastal Area.
2. The Proposed Local Law is intended to provide clear standards for future Battery Energy Storage System applications while preserving the Town Board's authority to conduct project-specific review under applicable local, state, and federal laws, including the LWRP.
3. The adoption of the Proposed Local Law will not itself result in any physical disturbance of land or impacts to coastal resources because it establishes only regulatory standards.
4. Any future Battery Energy Storage System proposed within the Coastal Area will remain subject to independent project-specific review under the LWRP, SEQRA, applicable site plan and special use permit procedures, and all applicable federal, state, county, and local approvals.
5. The Proposed Local Law advances the policies and objectives of the LWRP by preserving local review authority and establishing comprehensive standards governing siting, setbacks, landscaping, screening, lighting, noise, emergency response planning, fire protection, environmental protection, decommissioning, and financial security.
6. The Proposed Local Law expressly requires compliance with the LWRP and ensures that no future Battery Energy Storage System located within the Coastal Area may proceed without an independent LWRP consistency determination.
7. The extensive legislative process undertaken between October 20, 2025, and July 20, 2026—including joint meetings with the Planning Board, Conservation Advisory Board, and Agricultural Advisory Board; review under SEQRA and the LWRP; Erie County referral; two public hearings; and numerous revisions in response to advisory board recommendations and public comments—strengthened the Proposed Local Law and enhanced its consistency with the LWRP.

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8. Because the Proposed Local Law establishes only a regulatory framework and does not authorize any site-specific waterfront development, adoption will not adversely affect coastal resources protected by the LWRP.

9. Based upon the entire record before it, the Town Board finds that the Proposed Local Law, as revised through the legislative process, is consistent, to the maximum extent practicable, with the policies and purposes of the Town of Grand Island Local Waterfront Revitalization Program.

BE IT FURTHER RESOLVED, that the Town Board hereby determines that the adoption of Proposed Local Law Intro. #5 of 2025, entitled "Battery Energy Storage Systems Law," is consistent, to the maximum extent practicable, with the policies and purposes of the Town of Grand Island Local Waterfront Revitalization Program.

BE IT FURTHER RESOLVED, that the Town Board specifically finds that the revisions incorporated into the Proposed Local Law throughout the legislative process in response to recommendations from the Planning Board, Conservation Advisory Board, Agricultural Advisory Board, the public, technical consultants, renewable energy stakeholders, and other interested parties strengthened the Proposed Local Law's consistency with the LWRP while preserving the Town Board's legislative objectives.

BE IT FURTHER RESOLVED, that nothing contained in this Resolution or in the Proposed Local Law shall exempt any future Battery Energy Storage System proposed within the Town's designated Coastal Area from compliance with the Town's LWRP or from obtaining any project-specific waterfront consistency determination otherwise required by law.

BE IT FURTHER RESOLVED, that the Town Clerk is hereby directed to include this Resolution, together with the Coastal Assessment Form and all supporting materials, in the official legislative record relating to Proposed Local Law Intro. #5 of 2025.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

APPROVED	Ayes	5	Digati, Kilmer, Garcia, Diehl, Marston
	Noes	0	

C. Adopt Proposed Local Law Intro #5 of 2025 – Battery Energy Storage Systems Law

A motion was made by Councilman Kilmer, seconded by Councilman Digati to adopt Local Law Intro #5 of 2025 as Local Law #3 of 2026 as follows:

WHEREAS, on October 20, 2025, the Town Board of the Town of Grand Island (the "Town Board") introduced Proposed Local Law Intro. #5 of 2025, entitled "Battery Energy Storage Systems Law" (the "Proposed Local Law"), for the purpose of establishing comprehensive regulations governing the siting, design, construction, operation,

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maintenance, and decommissioning of Battery Energy Storage Systems within the Town; and

WHEREAS, on or about October 20, 2025, the Town Board of the Town of Grand Island referred the Local Law to the Erie County Department of Environmental and Planning pursuant to GML §239-m, and

WHEREAS, the Erie County Department of Environmental and Planning did not timely respond; and

WHEREAS, The Town Board adopted a Full Environmental Assessment Form (“FEAF”) Part 1 dated October 20, 2025, and Parts 2 and 3 dated August 3, 2026 and

WHEREAS, on July 20, 2026, the Town Board made a Negative Declaration of Environmental Significance (a “Neg Dec”); and

WHEREAS, The Town Board has satisfied its obligation under the New York State Environmental Quality Review Act (“SEQRA”), and

NOW, THEREFORE, it is resolved that the Town Board hereby approves and adopts the Local Law to be known as Local Law 3 of 2026, Ch. 108, Battery Energy Storage Systems.

AND THEREFORE, the Town Clerk is directed to file the same with the Secretary of State.

AND THEREFORE, Local Law 3 of 2026, Ch. 108, Battery Energy Storage Systems, shall be effective upon filing with the Secretary of State.

Town of Grand Island Local Law 3 of 2026, Chapter 108, Battery Storage Systems Battery Energy Storage

ARTICLE I

Enactment and Intent

§108 (1). Title.

This chapter shall hereafter be known, cited and referred to as the “Battery Energy Storage Systems Law of the Town of Grand Island.”

§108 (2). Authority.

The Town of Grand Island Town Board enacts this Battery Energy Storage System Chapter 108 under the authority granted by:

A. Article IX of the New York State Constitution, §2(c)(6) and (10).

B. New York Statute of Local Governments, §10, Subdivisions 1, 6 and 7.

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- C. New York Municipal Home Rule Law, §10, Subdivision 1(i) and (ii), and §10, Subdivision 1(ii)(a)(6), (11), (12) and (14).
- D. The supersession authority of New York Municipal Home Rule Law, §10, Subdivision 1(ii)d(3), specifically as it relates to determining which body shall have power to grant variances under this section, and what variances may be granted to the extent such grant of power is different than under Town Law §§ 267 and 274-b, and as it relates to the power of the Town Board to regulate land use within the Town to the extent the provisions of this chapter differ from the authority granted to the Town by Article 16 of the Town Law.
- E. New York Town Law, Article 16 (Zoning).
- F. New York Town Law §130, Subdivision 1 (Building code), Subdivision 3 (Electrical code), Subdivision 5 (Fire prevention), Subdivision 7 (Use of streets and highways), Subdivision 7-a (Location of driveways), Subdivision 11 (Peace, good order and safety), Subdivision 15 (Promotion of public welfare), Subdivision 15-a (Excavated lands), Subdivision 16 (Unsafe buildings), Subdivision 19 (Trespass), and Subdivision 25 (Building lines).
- G. New York Town Law §64, Subdivision 17-a (protection of aesthetic interests), and Subdivision 23 (General powers).
- H. New York Real Property Tax Law §487.
- I. Police powers of the Town of Grand Island; and the laws of the State of New York.

§108 (3). Purpose and Intent.

The Town of Grand Island Town Board recognizes that battery storage is an important component for grid reliability and is supplementing intermittent sources of renewable energy and intends to accommodate the use of appropriately sited battery energy storage systems in the Town. Understanding that there is growing need to properly site battery energy storage systems within the boundaries of the Town, this chapter is designed to protect land uses, prime soils and important soil types in the community and protect the health, safety and general welfare of citizens; preserve the overall beauty, nature and character of the Town, and promote effective and efficient use of renewable energy resources. Prior to the adoption of this chapter, the Town had no specific procedures to address the use and siting of battery energy storage systems. Hence, this chapter seeks to:

- A. Provide a regulatory framework for the designation of properties suitable for the location, construction and operation of Battery Energy Storage Systems (BESS).
- B. Ensure compatible land uses in the vicinity of the areas affected by a BESS.
- C. Protect the environment, public health, safety, and economic wellbeing of residents, farms and businesses of the Town.
- D. Provide an opportunity for the use of alternative sources of energy within the Town of Grand Island and promote clean energy.

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- E. Integrate battery energy storage systems seamlessly into the Town's neighborhoods and landscapes without diminishing quality of life in these areas.
- F. Maintain the rural character of the Town.
- G. Preserve the agricultural base of land and farm operations.
- H. Advance state renewable energy policy by promoting grid reliability.
- I. Balance the potential benefit of battery energy storage development within the Town against potential negative impacts to citizens, property owners, agricultural resources, local economy and local ecosystem of the Town of Grand Island.

ARTICLE II Terminology

§108 (4.) Definitions.

ANSI — American National Standards Institute.

APPLICANT — The individual/individuals or entity/entities that apply for any federal, state, or local government permit or permission for installation of a Battery Energy Storage System.

ARBORIST — An International Society of Arborists (ISA) certified professional with knowledge of arboriculture.

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

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM — An electronic system that monitors Battery Energy Storage Systems and protects the system from operating outside its safe operating parameters, provides for notification of impacted parties including the Grand Island Fire Company, 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 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 standalone twelve-volt car battery, or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 based on its energy capacity (kWh/MWh as follows:

- A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh. Tier 1 battery energy storage systems are an accessory use or structure to the principal use.

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- B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh. . Tier 2 battery energy storage systems may be the principal use or an accessory use to a Wind Energy Conversion System or Tier 3 Solar Energy System as defined in Town of Grand Solar Law, respectively.
- C. Multiple Battery Energy Storage Systems located on the same parcel or on contiguous parcels under common ownership or control shall be aggregated for purposes of determining tier classification.

BESS — A Battery Energy Storage System.

CERTIFICATE OF APPROVAL – This certification ensures that the BESS complies with safety regulations and standards set forth in the NYC Fire Code, specifically section 608-01, which governs the design, installation and operation of the BESS.

CERTIFICATE OF FITNESS - This certification, issued by the Town Board of the Town of Grand Island, ensures that the supervisor of the BESS installation and the operator of the BESS are knowledgeable of the design, installation and operation of the BESS including all hazards, safety protocols, regulations and standards as set forth in NYC Fire Code section 608-01.

COMMISSIONING PLAN – A written document that describes the means and methods throughout the planning, procurement, deployment, integration, and operation of the project that are required to document and verify the BESS and associated controls and safety systems, as required by NFPA 855 are in proper working order.

COMMISSIONING REPORT - a formal, documented record of the Battery Energy Storage System commissioning process and the final phase before a storage project is declared operational. It serves as proof that the system has been installed correctly, tested thoroughly and integrated end to end to meet all safety, performance, and regulatory requirements.

DECOMMISSIONING – The deactivation, de-energizing, dismantling, removal, and the transportation and disposal of the BESS components that must be conducted by trained and knowledgeable persons.

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 International 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.
- B. No other occupancy types are permitted in the building.
- C. Occupants in the building are limited to authorized personnel that operate, maintain, service, test and/or repair the battery energy storage system and its components.

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ENERGY CAPACITY — the total amount of electricity the Battery Energy Storage System can store and discharge over time.

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.

FACILITY AREA — The physical area, measured in both square feet and acres, used for any battery energy storage system, including the area within fencing, roads, visual screening, support facilities, and all other components of a battery energy storage system facility. The Facility Area is part of the Project Site.

FARMLAND OF STATEWIDE IMPORTANCE — Soils, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

FARM OPERATION — Land and on-farm buildings, equipment, facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise (in accordance with Agriculture & Markets Law § 301[11]).

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, and Fire Code of New York State Section 1207. As currently in effect and as hereafter amended from time to time.

HAZARD MITIGATION ANALYSIS — A site-specific evaluation prepared in accordance with NFPA 855 and sealed by a New York State Professional Engineer that identifies potential hazards and exposure risks associated with the energy storage system, evaluates potential impacts to adjacent exposures, emergency responders, and the public, and provides findings and recommendations regarding separation distances, fire department access, fire department connections, and appropriate mitigation measures.

HOST COMMUNITY BENEFIT AGREEMENT — An agreement between a BESS Owner and the Town providing financial compensation and other benefits to the Town that may include revenue sharing, funding for community projects and measures to mitigate the potential adverse impacts of a permitted BESS.

MINERAL SOIL GROUPS (MSG) 1-4 — Agricultural soil classifications as defined by the New York State Department of Agriculture and Markets. These soils are recognized as having the highest value based on soil productivity and capability.

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NATIVE PERENNIAL VEGETATION — Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

NEC— National Electric Code.

NFPA--- National Fire Protection Agency.

NET METERING AGREEMENT — An agreement with a local electric utility company that allows customers to receive a credit for surplus electricity generated by certain renewable energy systems.

NFPA 855 – The Current edition of Standard for the Installation of Stationary Energy Storage Systems published by National Fire Protection Association at the time the application is filed with the Grand Island Town Clerk, regardless of whether the then current version has been adopted by the State of New York.

NON-PARTICIPATING PROPERTY - Any property that is not a participating property.

OPERATOR --- Person(s) fit and responsible for the overall operation of the BESS with the authority to make and implement decisions, whose actions or failure to act may result in non-compliance with any regulatory or permit requirement.

PARTICIPATING PROPERTY - A BESS 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 BESS owner (or affiliate) regardless of whether any part of a BESS is constructed on the property.

POLLINATOR — Bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

POWER CAPACITY— the maximum rate at which a Battery Energy Storage System can delivery electricity, as commonly measured in Kilowatts or Megawatts.

PRIME FARMLAND — Soils, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

PRIME FARMLAND IF DRAINED — Soils which meet all necessary criteria for Prime Farmland other than depth to water table.

PROJECT SITE — The physical area needed for a battery energy storage system including any setbacks, buffers, fencing, roads, screening, support facilities, and battery energy storage system components. The Project Site includes the Facility Area.

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QUALIFIED PERSON – One who has skills, knowledge, experience and training related to the design, construction and operation of Battery Energy Storage Systems and electrical equipment and installations and has received safety training to recognize, avoid, and mitigate the hazards involved.

UL--- Underwriters Laboratories.

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 hereafter amended from time to time.

ARTICLE III General Provisions

§108 (5). Applicability and General Requirements.). **Applicability and General Requirements.**

A. Applicability.

- (1) This Chapter supersedes the requirements of Chapter 407, Town of Grand Island Zoning Law, as it pertains to the siting of Battery Energy Storage Systems.
- (2) The requirements of this Local Law shall apply to all Battery Energy Storage Systems permitted, installed or modified in the Town of Grand Island after the effective date of this Local Law.
- (3) Battery Energy Storage Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- (4) Modifications, retrofits, replacement and decommissioning of an existing Battery Energy Storage Systems that increase the Facility Area, Energy Capacity or Power Capacity shall be subject to review pursuant to this Local Law.
- (5) Any proposed Battery Energy Storage Systems subject to review by the New York State Department of Public Service or New York State Office of Renewable Energy, shall be subject to all substantive provisions of this Section and any other applicable laws, codes, and regulations of the Town of Grand Island, New York; and any other applicable State or Federal laws.

B. General Requirements.

- (1) A Building Permit shall be required for installation of all Battery Energy Storage Systems.

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(2) All Battery Energy Storage Systems, all dedicated buildings, and all other buildings that (1) contain or are otherwise associated with a Battery Energy Storage System and (2) subject to the Uniform Code and/or Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of NFPA 855, 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, the NEC and the Town Code of the Town of Grand Island. All applications shall be reviewed by the Building Department for completeness.

(3) The Applicant shall pay the costs of the Town’s “Qualified Person”, engineers and attorneys for time spent assisting the Town of Grand Island Building Department with its review of the application, construction inspection activity and the Commissioning Report.

(4) Issuance of approvals by the Town of Grand Island shall be subject to review pursuant to the State Environmental Quality Review Act , ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (collectively, “SEQRA”).

(5) Siting of Battery Energy Storage Systems shall conform to the Town of Grand Island Local Waterfront Revitalization Plan.

(6) Compliance with Uniform Code.

- a. Building permit applications shall be submitted only after issuance of a Special Use Permit, if applicable, and be accompanied by standard drawings of structural components of the Battery Energy Storage System. Drawings shall be stamped, and any necessary calculations shall be certified, in writing, by an appropriately licensed New York State Professional Engineer to indicate that the system complies with the current Uniform Code.
- b. Where the installation or structural components vary from the standard design or specifications, proposed modifications shall be certified by an appropriately licensed New York State Professional Engineer for compliance with the seismic and structural design provisions of the Uniform Code.

(7) Compliance with Electrical Code.

- a. Building permit applications shall be accompanied by drawings identifying the electrical components of the Battery Energy Storage System to be installed in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code (NEC). The application shall include a statement from an appropriately licensed New York State licensed Professional Engineer indicating that the electrical system conforms to sound engineering practices and complies with the

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NEC. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.

- b. Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by an appropriately licensed New York State licensed Professional Engineer for compliance with the requirements of the NEC and sound engineering practices.

(8) Battery Energy Storage Systems requiring site plan review must submit the following information in addition to the requirements set forth in the Grand Island Zoning Code:

- a. Completed Town of Grand Island Battery Energy Storage System Application Form.
- b. Completed Part 1 of the Full Environmental Assessment Form.
- c. Commissioning Plan
- d. Hazard Mitigation Analysis (HMA)
- e. Narrative description of the proposed project, including identification of all approvals sought, existing site conditions, adjacent land uses and owners.
- f. Signage, Screening and Landscape Plan.
- g. Lighting Plan.
- h. Fencing Plan.
- i. Emergency Response Plan.
- j. Fire Safety Compliance Plan. Such plan shall document and verify that the proposed system and its associated controls and safety systems are in compliance with the Fire Code of New York State and NFPA 855.
- k. Utility Plan.
- l. A three-line electrical diagram detailing the Battery Energy Storage System design, associated components, and electrical interconnection methods, with all National Electrical Code (NEC) compliant disconnects and over current devices.
- m. Noise Study.
- n. Applicant shall provide proof that the proposed Battery Energy Storage System has a current Certificate of Approval supplied by the manufacturer.
- o. A preliminary equipment specification sheet that documents all Battery Energy Storage System components and equipment to be installed. A final equipment specification sheet shall be submitted prior to the issuance of the building permit.
- p. Name, address, qualifications and contact information of proposed or potential Battery Energy Storage System installer, owner, and operator. Such information of the final system installer shall be submitted prior to the issuance of building permit.

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- q. Name, address, phone number, and signature of the project applicant, as well as all the participating property owner(s), demonstrating their consent to the application and the use of their property for the Battery Energy Storage System.

(9) No Battery Energy Storage Systems shall hereafter be used, erected, moved, reconstructed, changed or otherwise altered except in conformity with this law.

(10) All Battery Energy Storage System Facilities shall be fully accessible to all emergency service vehicles and personnel.

(11) All Battery Energy Storage System Facilities shall adhere to all applicable federal, state, county and Town of Grand Island laws and regulations, including building, plumbing, electrical, and fire codes.

(12) The Town of Grand Island Building Department shall notify the Grand Island Fire Company upon the approval of any approved Battery Energy Storage Systems.

§108 (6). Permitting Requirements for Tier 1 Battery Energy Storage Systems.

- A. Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Uniform Code Requirements and the Building Permit. Tier 1 Battery Energy Storage Systems shall be exempt from site plan review subject to the following requirements:
 1. The Application for a Building Permit must include battery replacement schedule and guarantee.
 2. The power supply cutoff device for any Tier 1 Battery Energy Storage System shall be located on the outside of the structures that support such systems, in close proximity to where the power supply enters the facility, along with twenty-four-hour emergency contact information, where it can be easily accessed by emergency personnel.

§108 (7). Permitting Requirements for Tier 2 Battery Energy Storage Systems

- A. Tier 2 Battery Energy Storage Systems are permitted in B-1, M-1, M-2, CR, and M/E Districts by Special Use Permit approved by the Town of Grand Island Town Board, after reviewing recommendations from the Planning Board, and subject to the site plan application requirements, physical limitations on area and other substantive requirements in this chapter and the Grand Island Town Code, subject to the following conditions:
 1. Design requirements:
 - a. All structures shall be non-reflective and painted a neutral or earth tone color.
 - b. Views of the Tier 2 Battery Energy Storage Systems shall be minimized from adjacent properties with screening.

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- c. Tier 2 Battery Energy Storage Systems shall be located in a manner to reasonably avoid blockage of views from surrounding properties.
 - d. Tier 2 Battery Energy Storage Systems shall be located in a manner to reasonably avoid shading of adjacent properties.
 - e. The maximum height of any Tier 2 Battery Energy Storage Systems is 15 feet from finished grade.
 - f. Noise. Noise limits shall meet the requirements of 16 NYCRR Part 1100 for substations. The one-hour L_{eq} sound pressure generated by the BESS components and associated facility equipment shall not exceed ambient noise by greater than 6 dBA at the Facility property boundary.
 - g. Fencing. All mechanical equipment shall be enclosed by a fence at least seven feet in height with a self-locking gate. The use of barbed wire, razor wire or electric fencing is prohibited. Fencing must be made of non-reflective material. The use of opaque fencing is encouraged to promote visual impact mitigation. The fencing requirement does not apply to interconnection or metering equipment that the serving utility requires to be located outside the BESS facility fence.
- A. Tier 2 Battery Energy Storage Systems are presumed to be Type 1 actions subject to SEQRA review.
 - B. Lot coverage: The facility area shall not exceed 33% of the total area of any tax parcel or lot.
 - C. Lot Size: The minimum lot size for Tier 2 Battery Energy Storage Systems is 1 acre.
 - D. Setbacks. The minimum setbacks are as follows:
 - (1) Side and Rear: 100 feet from all adjacent property lines.
 - (2) Minimum setback of 100 feet from all adjacent non-participating residentially zoned property boundary.
 - (3) Minimum setback of 200 feet from the boundary of any nonparticipating residentially zoned property, school, public park, airport, or other public place.
 - (4) Setbacks shall be measured from the nearest battery container in the Facility Area.
 - (5) Hazard Mitigation Analysis (HMA) Setback Adjustments:
 - a. Where the HMA completed in accordance with NFPA 855 demonstrates that the baseline setbacks above are insufficient to: maintain community safety, including safe emergency response options; the Town Board will require increased setbacks consistent with the HMA findings.
 - b. The Town Board may require additional setbacks beyond the HMA recommendations where necessary to address: other conditions affecting public health, safety and welfare.

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E. Site requirements:

- (1) Vehicular paths and emergency access ways within the site shall be designed to minimize the extent of impervious materials. Topsoil in the same location as roads shall be stripped and stockpiled, and roads shall be capable of bearing the weight of emergency vehicles and sufficiently wide to permit access to emergency vehicles such as fire trucks and ambulances so that emergency vehicles may pass each other without leaving the road. The Operator shall be responsible for always keeping all access roads clear and passable by emergency equipment.
- (2) Signage shall be in accordance with NFPA 855 and the Fire Code of New York. Signs shall not exceed 6-square-feet per sign and shall be printed on a light reflective surface.
- (3) Signage at the meter, facility entrances, and where access road(s) intersect with public roads shall be required that contains the following information:
 - a. Disconnect and emergency shut-off information as required by the National Electric Code.
 - b. 24-hour emergency contact information.
 - c. Owner and operator's name, address and telephone number.
 - d. Facility address and project name.
 - e. Danger High Voltage signs.
- (4) "Energy Storage System" signs of a minimum size of 18 inches by 24 inches with symbols that comply with ANSI Z535 standards shall be at conspicuous locations and must contain the following information, where applicable:
 - a. Type of electrochemical technology
 - b. Special hazards
 - c. Apply no water
 - d. Type of suppression system
 - e. Type of explosion control and prevention system
 - f. Emergency contact information.
- (5) Lighting. Lighting of the facility shall be limited to that minimally required for safety and operational purposes and shall be dark-sky compliant, directional and shielded from all neighboring properties and public roads.
- (6) Fencing. All mechanical equipment shall be enclosed by a fence at least seven feet in height with a self-locking gate. The use of barbed wire, razor wire or electric fencing is prohibited. Fencing must be

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made of non-reflective material. The use of opaque fencing is encouraged to promote visual impact mitigation.

- (7) Screening. The Facility Area must be screened from all adjacent property lines. Existing vegetation on-site may be used to satisfy all or a portion of the required screening. Vegetation planted to be used as screening must be a minimum of 6-feet-tall at the time of planting. Off-site existing vegetation may not be used as part of a screening plan.
- (8) Landscaping. Native plants and trees must be used for landscaping and screening and must be maintained for the life of the project.
- (9) Transmission lines. All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
- (10) Deforestation. Removal of trees and other existing vegetation shall be limited to the extent necessary for the construction and maintenance of the battery energy facility. Removal of existing trees larger than 6 inches in diameter at breast height (DBH) must be avoided to the maximum extent practicable. Mitigation is required for removal of existing trees larger than 6-inches in diameter. Mitigation may include planting of appropriately sized trees used for screening elsewhere on-site.
- (11) Soils. Disturbance of Prime Farmland, Prime Farmland if Drained, Farmland of Statewide Importance, and MSG 1-4 shall be avoided to the maximum extent practicable.

F. Decommissioning.

- (1) Battery Energy Storage Systems that have been abandoned and/or not producing or storing electricity for a period of one year shall be removed at the owner and/or operator's expense.
- (2) Security.
 - a. The deposit, execution, or filing with the Town Clerk of cash, surety bond, or a letter of credit shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the state or local permit and provide for the removal and restorations of the site subsequent to removal. The amount of the surety bond, letter of credit or cash escrow payment shall be 125% of the cost of removal of the Tier 2 Battery Energy Storage Systems and restoration of the property in accordance with any state or local permit conditions, with an

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escalator of 2% annually, or by a percentage equal to annual inflation rate as calculated using the Consumer Price Index published by the Labor Department's Bureau of Labor Statistics for the previous calendar year, whichever is greater, for the life of the Battery Energy Storage System, except in any year where the decommissioning cost is recalculated as set forth below.

- b. The initial decommissioning cost calculation and subsequent updates shall be completed and stamped by a third-party New York State Licensed Professional Engineer with applicable battery energy storage facility experience, agreeable to both the facility owner and the Town of Grand Island. Such calculation shall also include a reasonable percentage allocated to possible soil remediation as a result of the install and/or operation of the Battery Energy Storage Systems.
- c. Beginning on the second anniversary of completion of construction, and every fifth year thereafter until decommissioning is completed, a qualified and independent third-party assessor or other consultant agreeable to both the facility owner and the Town will recalculate the projected cost of decommissioning over the next five-year period, and the applicant shall adjust the amount of the letter of credit to match 125% of the recalculated decommissioning cost.
- d. Change in ownership. The obligation to maintain a decommissioning security surety bond, letter of credit or cash escrow benefitting the Town of Grand Island is a continuing obligation that may not be transferred without written consent of the Town of Grand Island, which consent shall not be unreasonably withheld.
- e. In the event the applicant is in default of its obligations to decommission the facility under any applicable law or permit, and after proper notice and expiration of any cure periods, the

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cash deposit, letter of credit, or security shall be forfeited to the Town which shall be entitled to maintain an action thereon. The cash deposit, letter of credit, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

- (3) In the event of default under this section or the conditions of any permit for construction and operation of the Battery Energy Storage System, or abandonment of the Battery Energy Storage System, the Battery Energy Storage System shall be decommissioned as set forth herein.

§108 (8). Special Use Permit Requirements.

A. Application Requirements.

1. Pre-application Meeting – No less than 30 days before the date on which an applicant files an application, the applicant shall conduct a pre-application meeting with the Town Supervisors office, the Engineering Department, the Building Department and the Planning Board. If the Town does not schedule the pre-application within thirty days from such a request, the Applicant may submit its application. During such meeting the applicant shall provide:
 - a. A designated contact person, with telephone number, email address and mailing address from whom information will be available on a going forward basis, as well as the URL for the project website to disseminate information to the public.
 - b. A brief description of the proposed Facility and its environmental setting.
 - c. A map of the proposed Facility showing project components and regulatory boundaries as it pertains to substantive laws relevant to the proposed Facility.
 - d. A summary of the substantive provisions of local laws applicable to the construction, operation, maintenance and decommissioning of the proposed Facility.
 - e. Any potential impacts of the Facility for which consultation with the Town is required to inform the preparation of exhibits to the application, such as the need for visual impact analysis.
2. Accurate Real Property Survey.
3. Commissioning Plan
4. Operations and Maintenance Manual
5. Site specific Hazard Mitigation Analysis per NFPA 855

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6. Wetland Delineation Report, and, if required, Army Corps of Engineers and NYSDEC Jurisdictional Determinations and approved Mitigation Plan.
7. Completed Site Plan Application as set forth in Chapter 407.
8. Aerial site plan showing the location of relevant utility poles and lines, trees and structures, and the names of all adjacent property owners.
9. Visual Impact Assessment (VIA). At a minimum, the VIA must include:
 - a. A line-of-sight profile analysis.
 - b. Photographic simulations of the facility area showing visual conditions with proposed landscaping and screening at the following intervals:
 - i. At installation,
 - ii. At the two-year anniversary after installation, and
 - iii. At the five-year anniversary after installation.
10. Tree Inventory for trees with a minimum 6-inch DBH within the facility area.
11. Tree Clearing Mitigation Plan, if applicable.
12. Engineer's Report including:
 - a. One and three line electrical diagrams detailing BESS layout, associated components, and electrical interconnection methods, with all NEC compliant disconnects and over current devices.
 - b. Narrative describing the design, installation, operation, and decommissioning of the essential elements of the BESS.
 - c. A qualitative assessment of the compatibility of the Facility with existing, proposed and allowable land use within one mile of the Facility.
 - d. Description of all regulated and unregulated water resources and aquatic ecology found on site and within 500 feet of the area to be disturbed by Facility construction, operation, emergency upsets, and decommissioning.
 - e. Description of the vicinity wide terrestrial ecology to include but not be limited to topography, vegetation, wildlife, water resources, soil characteristics, agricultural resource, and the design strategy that minimize environmental impact.
 - f. Description of the site security plan including lighting, access controls, fences, gates, emergency access requirements
 - g. SWPPP and Erosion Control Plan, if applicable,
 - h. Noise Impact Study,
 - i. Stormwater Drainage Plan and Calculations,
 - j. Clearing and Grading Plan, and

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13. Full Battery Energy Storage Management System Description to include video monitoring per the Fire Code of New York State.
 14. Fire Safety Compliance Plan per NFPA 855
 15. Emergency Response Plan per NFPA 855,
 16. Proposed Decommissioning Plan per NFPA 855, and:
 17. Proposed PILOT and Host Community Agreement.
- B. All Special Use Permit applications for a Battery Energy Storage System shall be submitted to the Town of Grand Island Building Department.
- C. In addition to the requirements set forth in this chapter, the issuance of a Special Use Permit shall be subject to any other requirements outlined in Grand Island Town Code Chapter 407.
- D. Applicant must obtain and provide copies of all necessary permits and approvals from applicable federal, state and county agencies having jurisdiction over any portion of the proposed Battery Energy Storage System before a building permit is issued.
- E. Applications for a Special Use Permit shall be subject to a public hearing before the Town Board may act to approve or deny the requested permit.
- F. The Special Use Permit for a Battery Energy Storage System shall be valid for a period of 12 months, provided that a building permit is issued for construction and construction has commenced within the first 12-month period. The Town Board may elect to extend the initial Special Use Permit for up to 1 year. If the owner/operator fails to perform substantial construction within 24 months of the date of the initial approval, the Special Use Permit shall expire.
- G. The Special Use Permit must be renewed annually.
- H. Ownership changes. If the owner or operator 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. A new owner or operator of the Battery Energy Storage System shall notify the Building Department of such change in ownership or operator within 15 days of the ownership change and update all signage at the property as soon as practicable.

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- I. After completion of construction and before operation, the Applicant shall provide post-construction certification from a licensed New York State professional engineer in the form of a Commissioning Report per NFPA 855 that indicates that the project construction complies with all applicable codes and industry practices and will operate in accordance with the approved Special Use Permit.
- J. Any post-construction changes or alterations to a Type 2 Battery Energy Storage System shall be undertaken only by amendment to the special use permit (and site plan approval, if required), subject to all requirements of this chapter.

K. Fees and Deposits.

- (1) The fees for a Special Use Permit, Site Plan Review, and Building Permit for a Battery Energy Storage System shall be set from time to time by Town Board Resolution.

The applicant for a Special Use Permit shall deliver to the Town Clerk, along with its application for a Special Use Permit, \$50,000 (the “Initial Deposit”) to be held in escrow by the Town for use by the Town to pay consultants and attorneys engaged by the Town to assist in review of all applications for the proposed Battery Energy Storage System. If the amount held in escrow is depleted prior to grant or denial of all applications associated with the Battery Energy Storage System, the Applicant shall deposit such funds necessary for the Town to pay any outstanding fees to said consultants. Following approval or denial of the required applications, any excess remaining in escrow shall be returned to the Applicant within 30 days. The Town Board may enter into an escrow agreement with the Applicant at its discretion.

§108 (9). Revocation of permit; interpretation; severability.

- A. Violations of any of the conditions of the special use permit, site plan approval or any other local, state or federal laws, rules or regulations shall be grounds for the revocation of the special use permit or site plan approval. Revocation may occur after the owner and operator are notified, in writing, of the violations and the Town of Grand Island Town Board holds a hearing on same.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of public health, safety and general welfare. It is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this chapter are at a variance with the requirements of

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any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards, shall govern.

- C. If any section, subsection, phrase, sentence or other portion of the chapter is for any reason held invalid, void, unconstitutional or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

§108 (10). Safety

- A. Battery Energy Storage Systems shall be certified under the applicable electrical and/or building codes as required.
- B. Maintenance and repair.
 - (1) A Battery Energy Storage System shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages.
"Operational condition" includes meeting all approval requirements and conditions.
 - (2) The Battery Energy Storage System shall be kept free from hazards, including, but not limited to, faulty wiring, loose fastenings, and creation of an unsafe condition or detriment to public health, safety or general welfare.
 - (3) Site access shall be maintained, including snow removal sufficient to allow access to emergency personnel and emergency vehicles at all times.
 - (4) Owners and operators of Battery Energy Storage Systems shall be required to keep all records of maintenance activities. The Town of Grand Island Building Department shall have access to such records upon request. A report summarizing all maintenance activities shall be filed annually with the Special Use Permit renewal application.
 - (5) The owner/operator of a Tier 2 Battery Energy Storage System shall be required to fully inspect the system on an annual basis. A copy of the inspection report shall be provided to the Grand Island Building Department as part of the renewal of the special use permit. (See §7 of this chapter.) The inspection shall comply with all requirements of the New York State Building Code. Report summarizing all maintenance and operation records.
 - (6) Additional inspections may be required by the Building Department in his or her discretion. Any inspections required by the Town that are beyond the

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Town's technical expertise or ability shall be conducted by third parties at the expense of the Applicant.

C. Abatement and removal.

- (1) If a Battery Energy Storage System poses a safety hazard, as determined by the Town of Grand Island Building Department, the owner or operator shall take immediate action to remedy the hazard to the Building Department's reasonable satisfaction. The Building Department shall have the authority to cause the abatement of any hazardous situation, including issuance of a notice of violation and causing the Battery Energy Storage System to be made nonoperational until such hazard has been remedied to the satisfaction of the Town of Grand Island Building Department.
- (2) If the use of an approved Battery Energy Storage System is discontinued, the owner or operator shall notify the Town of Grand Island Building Department within 30 days of such discontinuance. If the Battery Energy Storage System is to be retained and reused, the owner or operator shall further inform the Town of this, in writing, at such time and obtain any necessary approvals within one year. Otherwise, the Battery Energy Storage System shall be deemed automatically abandoned.
- (3) Upon cessation of electricity generation of a Battery Energy Storage System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Battery Energy Storage System to implement the decommissioning plan. The decommissioning plan must be completed within 1 year of notification.
- (4) If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Grand Island may, at its discretion, utilize the bond and/or security for the removal of the Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

§108 (11). Enforcement

Any violation of this Battery Energy 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 Grand Island.

APPROVED	Ayes	5	Digati, Kilmer, Garcia, Diehl, Marston
	Noes	0	

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