**RESOLUTION 79- 2022**

**TOWN OF RIPLEY**

**AMENDING TOWN OF RIPLEY ZONING LAW 1992-2 SECTION 639 BATTERY ENERGY STORAGE LAW**

 Moved the following Resolution: Supervisor Bowen

 **RESOLVED**, that the Town Board hereby introduces a Local Law to provide for an **AMENDMENT OF THE TOWN OF RIPLEY ZONING LAW 1992-2. THE AMENDMENT CONSISTS OF AN ADDED SECTION 639 WHICH IS ATTACHED HERETO AND MADE A PART HEREOF ENTITLED “Battery Energy Storage Law”**

 **BE IT FURTHER RESOLVED, THAT THE TOWN BOARD WILL HOLD A PUBLIC HEARING ON THE PROPOSED LOCAL LAW ON JUNE 9, 2022 AT 7:00 P.M. IN THE TOWN OFFICE 14 N. STATE ST. RIPLEY N.Y. THE BOARD WILL CONSIDER THE COMMENTS OF THE PUBLIC AND PROSPECTIVELY TAKE ACTION ON THE PROPOSED LOCAL LAW.**

This was seconded by Councilman Chimera,

ROLL CALL VOTE: Mr. Henry YES, Mr. Chimera YES, Mr. Rowe YES and Mr. Bowen YES. Carried unanimously

 **Section 639 Battery Energy Storage Systems**

1. Authority

This Battery Energy Storage System Law is adopted pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments, § 10 (1) and (7); sections 261-263 of the Town Law and section 10 of the Municipal Home Rule Law of the State of New York, which authorize the Town of Ripley to adopt zoning provisions that advance and protect the health, safety and welfare of the community.

1. Statement of Purpose

This Battery Energy Storage System Law is adopted to advance and protect the public health, safety, welfare, and quality of life of the Town of Ripley by creating regulations for the installation and use of Battery Energy Storage Systems, with the following objectives:

 1. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;

 2. To ensure compatible land uses in the vicinity of the areas affected by Battery Energy Storage Systems; 3.

To mitigate the impacts of Battery Energy Storage Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; 4.

 To prevent risks to the public, local residents, neighboring properties and first responder health and safety posed by Battery Energy Storage Systems; and

 5. To create synergy between Battery Energy Storage System development while protecting the historic and rural character of the Town, maintaining the rural style of life, retaining active farm production, developing business, and making Ripley and affordable place to live.

 C. Definitions

 As used in this Section, the following terms shall have the meanings indicated:

ANSI: American National Standards Institute

 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 law, batteries utilized in consumer products are excluded from these requirements.

 2 FLOW BATTERY. A storage battery that stores and generates an electrical current by ion exchange through a membrane separating liquid electrolytes.

 LEAD ACID BATTERY. A storage battery that is comprised of lead electrodes immersed in sulfuric acid electrolyte, including vented (flooded) or valve regulated lead acid (VRLA) batteries.

 LITHIUM-ION (Li-ion) BATTERY. A storage battery in which an electrical current is generated by lithium ions embedded in a carbon graphite or nickel metal-oxide substrate placed in a high-viscosity carbonate mixture or gelled polymer electrolyte. NICKEL CADMIUM (Ni-Cd) BATTERY. An alkaline storage battery in which the positive active material is nickel oxide, the negative active material contains cadmium, and the electrolyte is potassium hydroxide.

 NICKEL METAL HYDRIDE (NiMH) BATTERY. An alkaline storage battery in which the positive active material is nickel oxide, the negative active material is a hydrogen absorbing alloy, and the electrolyte is potassium hydroxide.

 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 ENERGY STORAGE SYSTEM: One or more batteries or other devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A Battery Energy Storage System is classified as a Tier 1, Tier 2, or Tier 3 Battery Energy Storage System as follows:

TIER 1 BATTERY ENERGY STORAGE SYSTEM: Battery Energy Storage Systems within or outside the structure with an aggregate energy capacity less than or equal to:

a. 70 kWh for Lead Acid, Ni-Cd, and NiMH batteries; and

b. 20 kWh for Li-ion and Flow batteries.

TIER 2 BATTERY ENERGY STORAGE SYSTEM: Battery Energy Storage Systems with aggregated rated energy capacity:

a. Greater than 70 kWh and less than 500 kWh for Lead Acid, Ni-Cd, and NiMH batteries;

 b. Greater than 20 kWh and less than 250 kWh for Li-Ion batteries, and

c. Greater than 20 kWh and less than 500 kwH for Flow batteries.

TIER 3 ENERGY STORAGE SYSTEM: Battery Energy Storage Systems that have an aggregate energy capacity greater than 500 kWh for Lead Acid, Ni-Cd, NiMH, and 3 Flow Batteries, and greater than 250 kw for Li-ion Batteries.

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

 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.

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.

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL): A 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.

UL: Underwriters Laboratory, an accredited standards developer in the US. 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.

D. Applicability

1. The requirements of this Local Law shall apply to all Battery Energy Storage Systems permitted, installed, or modified in the Town of Ripley after the effective date of this Local Law, excluding general maintenance and repair at the discretion of the Code Enforcement Officer.

2. 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. 3. Modifications to, retrofits or replacements of an existing Battery Energy Storage System that increase the total Battery Energy Storage System designed discharge duration or power rating shall be subject to this Local Law.

 E. General Requirements 4

 1. A building permit shall be required for installation of all Battery Energy Storage Systems, and shall not be issued unless all requirements of this law are satisfied, as well as any other provisions of the Ripley Town Code.

2. All buildings or structures that (1) contain or are otherwise associated with a Battery Energy Storage System and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town of Ripley Code. 3. The substantive provisions of this law are intended to apply to any Battery Energy Storage System subject to review pursuant to Article 10 of the Public Service Law or Article 94-c of the Executive Law, or any other state or federal level permitting or approval process implemented by the State of New York or the Federal Government of the United States of America.

F. Permitting Requirements for Tier 1 Battery Energy Storage Systems Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Uniform Code and the requirements of this law and the Ripley Town Code and Zoning Law, and exempt from site plan review. Prior to the issuance of the building permit, a copy of an approved Emergency Operations Plan approved by the Ripley Fire District and Hose Companies shall be filed by the Ripley Fire District. A permanent copy shall also be placed in an approved location to be accessible to fire code officials, and emergency responders in the case of an emergency. 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, if any.

 3. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.

 4. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating 5 personnel, local residents, community members of Ripley and neighboring Towns, Villages and States, 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 of Ripley, in consultation with the Ripley Fire District to provide for the safety of occupants, neighboring properties, residents and emergency responders.

G. Tier 2 and Tier 3 Battery Energy Storage Systems Tier 2 and Tier 3 Battery Energy Storage Systems are prohibited and shall not be constructed or maintained within the Town of Ripley.

H. Safety

1. System Certification required prior to start of operation. Battery Energy Storage Systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for Battery Energy Storage Systems and Equipment) with subcomponents meeting each of the following standards as applicable:

 a. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power, and Light Electric Rail Applications),

b. UL 1642 (Standard for Lithium Batteries),

 c. UL 1741 or UL 62109 (Inverters and Power Converters),

 d. Certified under the applicable electrical, building, and fire prevention codes as required.

2. Battery Energy Storage Systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70 and all other applicable standards deemed necessary by the Town of Ripley or Ripley Fire District.

I. Enforcement:

 Any violation of this Battery Energy Storage System 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 Town of Ripley.

J. Severability

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