Local Law #1 – 2025

LOCAL LAW ENACTING A TEMPORARY MORATORIUM ON BATTERY ENERGY STORAGE SYSTEM FACILITIES

SECTION I
SHORT TITLE

This local law shall be cited as Local Law No. 1 of 2025 of the Town of Mina and is entitled the "2025 Temporary Moratorium Law on Battery Energy Storage System Facilities."

SECTION II
LEGISLATIVE FINDINGS

WHEREAS, communities in Chautauqua County are witnessing the introduction of a previously unfamiliar form of Green-adjacent technology in the form of Battery Energy Storage Systems, or "BESS"; and

WHEREAS, BESS facilities generally consist of rows of rechargeable batteries housed in self-contained, interconnected storage units. BESS facilities typically operate by drawing surplus energy from the local power grid during periods of low usage and storing it for later distribution back into the grid during peak demand; and

WHEREAS, the Town of Mina and local fire companies have raised concerns regarding BESS facilities over the presence of highly flammable substances, such as from lithium-ion batteries, and possible air and groundwater contamination; and

WHEREAS, Governor Kathy Hochul announced the creation of a state interagency working group tasked with ensuring the safety of battery energy storage systems across New York; and

WHEREAS, the Town Board finds it imperative that the Town undertake a thorough examination of these systems to identify any possible threats to public health, safety and welfare as well as evaluate the potential for environmental degradation; and

WHEREAS, other potentially significant planning concerns associated with BESS facilities such as noise generated by cooling fans may affect the quality of life of our residents; and

WHEREAS, it is essential for the Town of Mina to enact a temporary moratorium to carefully evaluate the implications of BESS facilities and assess how they may impact the Town, its residents, and its fire prevention infrastructure; and

WHEREAS, the Town Board of the Town of Mina has determined that in accordance with Section 617.5(c)(30) SEQR the adoption of a moratorium on applications for building permits and/or certificates of occupancy for land development or construction of Battery Energy Storage System Facilities constitutes a Type II Action, and further that the proposed moratorium has been identified as an Action not having a significant impact on the environment and is not subject to review under SEQRA.

NOW THEREFORE BE IT RESOLVED that the Town of Mina shall implement a moratorium to allow for a comprehensive and deliberate examination of BESS facilities and the state inter-agency working group, with the aim of preserving the Town's ability to address the unique needs and concerns of our community in the realm of battery energy storage system regulations.

SECTION III
AUTHORITY

This moratorium is enacted by the Town Board of the Town of Mina pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10.

SECTION IV
MORATORIUM

A. For a period of six (6) months from the effective date of this Local Law, no applications shall be accepted or considered by the Town of Mina for any battery energy storage system facilities, or stand-alone.
B. This moratorium may be extended by one (1) additional period of up to six (6) months by resolution of the Town Board upon a finding of the necessity for such extension.

SECTION V
VARIANCES

The Town Board shall have the authority, after a public hearing, to vary or modify the application of any provision of the Local Law upon its determination that strict application of this Local Law would impose practical difficulties or extraordinary hardships upon an applicant and that the variance granted would not adversely affect the health, safety, or welfare of the

citizens of the Town or significantly conflict with the general purpose and intent of this Local Law. Any request for a variance shall be in writing and filed with the Town Clerk and shall include a fee of Two Hundred Fifty Dollars ($250.00) for processing of such application. All such applications shall promptly be referred to the Town Board, which shall conduct a Public Hearing on the application on not less than five (5) days public notice and shall make its decision with thirty (30) days after the close of the Public Hearing.

SECTION VI
SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or parts.

SECTION VII
REPEAL OF OTHER LAWS

All local laws in conflict with provisions of this Local Law are hereby superseded and suspended for the duration of this moratorium and for any additional period that this Local Law is extended. This Local Law also supersedes, amends and takes precedence over any inconsistent provisions of New York State Town Law, the Town's Municipal Home Rule powers, pursuant to Municipal Home Rule Law Sections 10 and 22. The Town Law provisions intended to be superseded include all of the Article 16 of the Town Law, Sections 261-285 inclusive and any other provisions of law that the Town may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and to apply such intent in the event the Town has failed to specify any provisions of law that may require supersession. The Town Board hereby declares that it would have enacted this local law and superseded such inconsistent provisions had it been apparent.

SECTION VIII
EFFECTIVE DATE

This Local Law shall take immediately, as provided by law, upon filing with the New York State Secretary of State.