

Wind Energy Law Willing 4-2023 Proposed Amendment #1, Sections 4: Definitions

BATTERY ENERGY STORAGE SYSTEM (BESS): 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 12-volt car battery or an electrical motor vehicle. A BESS is classified as a Tier 1, Tier 2, Tier 3 or Tier 4 BESS as follows:

- Tier 1 (Small) BESS have an aggregate energy capacity less than or equal to 600kWh that are an accessory use or structure to the principal use; and, if in a room or enclosed area consist of only a single energy storage system technology.
- Tier 2 (Medium) BESS have an aggregate energy capacity greater than 600kWh and less than 1mWh that are an accessory use or structure to the principal use and are generating electricity to be used onsite. These systems may be either in a room or an enclosed area.
- Tier 3 (Large) BESS (Utility/Industrial Grad System) are systems that are associated with a large-scale wind energy system and are designed with a purpose to store energy and put that energy back into the power grid and have an aggregate energy capacity less than 1mWh.
- Tier 4 BESS: any BESS with a capacity greater than 1mWh used to store energy for any purpose.

Wind Energy Law Willing 4-2023 Proposed Amendment #2, Added Section 18

SECTION 18:

A. Section 18 of Local Law 4 of 2023 is added to read:

1. Fire Protection

Each wind turbine will have an industry standard approved fire detection and fire suppression system. All fire detection and fire suppression systems will be periodically tested to ensure functionality.

2. Restitution and Remediation for Damages due to Equipment Failure

Any damages, including but not limited to physical property damage, environmental damage, and loss of income and potential income incurred by any person, landowner, legal entity, or municipality due to the failure of the operator/owner's equipment will be the responsibility of the operator/owner.

3. Battery Energy Storage Systems (BESS)

A. Tier 1 (Small), Tier 2 (Medium), Tier 3 (Large) and Tier 4 (capacity greater than 1mWh used to store energy for any purpose) battery energy storage systems shall meet the requirements of any applicable fire prevention code, building code and design requirement when in use and, when no longer used, shall be disposed in accordance with the laws and regulations of the Town of Willing and any applicable federal, state or county laws or regulations. Fire prevention codes, building codes, design requirements and applicable federal, state, and county laws or regulations include but are not limited to standards and requirements set forth in the:

1. 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.
2. 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.
3. 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.

4. NEC: National Electric Code
 5. NFPA: National Fire Prevention Association
 6. 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.
- B. Small battery energy storage systems are a permitted use in all areas and require site plan approval.
- C. Medium battery energy storage systems are permitted in all areas and require site plan review and a building permit.
- D. Large battery energy storage systems are not permitted on soils classified as prime farmland, prime farmland if drained or soils of statewide importance by the U.S. Department of Agriculture, New York State, farmland or the Natural Resources Conservation Service. In addition, large battery energy storage systems shall not be sited on more than 10% of any parcel containing prime farmland, prime farmland if drained or soils of statewide importance.
- E. Large battery energy storage systems require a special use permit, site plan review and a building permit.