

**TOWN OF LEWISTON
NIAGARA COUNTY, NEW YORK**

LOCAL LAW NO. 5 OF 2026

**A LOCAL LAW IMPOSING A TEMPORARY MORATORIUM ON THE
ACCEPTANCE, PROCESSING, APPROVAL, CONSTRUCTION, INSTALLATION,
AND OPERATION OF BATTERY ENERGY STORAGE SYSTEMS, INCLUDING
BATTERY ENERGY STORAGE SYSTEMS ASSOCIATED WITH COMMERCIAL
SOLAR ENERGY SYSTEMS AND STAND-ALONE BATTERY ENERGY STORAGE
FACILITIES.**

SECTION 1. Legislative Findings and Intent

The Town Board of the Town of Lewiston hereby finds that battery energy storage systems (“BESS”) are rapidly evolving technologies that can present substantial land-use, fire-safety, emergency-response, environmental, aesthetic, and neighborhood-compatibility considerations.

The Town Board recognizes the benefits of renewable energy and energy storage and does not intend this temporary moratorium to constitute a determination that battery energy storage systems are inherently unsafe or inappropriate. Rather, this temporary measure is intended to preserve the status quo while the Town evaluates appropriate locations, siting standards, setbacks, screening, emergency access, fire protection, capacity thresholds, equipment configuration, noise, security, decommissioning, abandonment, and other land-use considerations before additional applications are accepted or approved.

The Town Board has reviewed guidance from New York State concerning battery energy storage systems. NYSEDA's current Battery Energy Storage System Model Law provides municipalities with a framework for regulating residential, commercial, and utility-scale systems and advises municipalities to tailor local regulations to local conditions and existing zoning. The Town Board therefore finds that a temporary pause will permit Town staff, land-use boards, emergency responders, consultants, and counsel to review those standards and determine appropriate local regulations.

The Town Board further finds that changes to battery-storage technology and applicable New York State building and fire codes, together with the potential scale and duration of proposed facilities, warrant a deliberate review before new projects are authorized.

Accordingly, the Town Board determines that a temporary moratorium is necessary to preserve

the status quo, protect the public health, safety and welfare, and allow the Town to develop comprehensive and legally defensible regulations.

SECTION 2. Purpose and Objectives

The purposes of this Local Law are to:

- A. Temporarily suspend new applications and/or approvals for covered battery energy storage systems;
- B. Preserve the existing land-use status quo during the moratorium;
- C. Review the Town Comprehensive Plan and zoning regulations as they relate to energy storage;
- D. Evaluate appropriate zoning districts and locations for BESS facilities;
- E. Establish appropriate capacity thresholds and classifications;
- F. Evaluate setbacks from residences, property lines, public roads, schools, public facilities, and environmentally sensitive areas;
- G. Review fire prevention, emergency response, access, water supply, detection, suppression, and incident-response requirements;
- H. Evaluate visual screening, landscaping, fencing, lighting, noise, equipment height, and neighborhood compatibility;
- I. Establish requirements for operation, inspection, maintenance, security, abandonment, and decommissioning; and
- J. Consider appropriate regulations for both solar-associated and stand-alone battery storage facilities.

SECTION 3. Definitions

- A. “Battery Energy Storage System” or “BESS” means one or more devices, assembled together, capable of storing electrical energy in order to supply electrical energy at a future time, including batteries, battery management systems, power conversion systems, transformers, switchgear, controls, enclosures, containers, cooling systems, fire protection systems, and associated equipment.
- B. “Solar-Associated Battery Energy Storage System” means a BESS located on the same property as, or directly associated with, a commercial or utility-scale solar energy system, whether charged exclusively by the solar facility or capable of receiving electricity from the electric grid.
- C. “Stand-Alone Battery Energy Storage Facility” means a facility principally devoted to the storage and discharge of electrical energy and not physically incorporated into an individual residential or ordinary small-scale commercial electrical system.
- D. “Commercial Solar Energy System” means a solar energy system intended primarily to generate electricity for commercial sale, wholesale distribution, or grid supply, including utility-

scale or community-scale solar facilities to the extent regulated by the Town.

E. “Battery Storage Facility” includes a stand-alone BESS and all associated structures, equipment, fencing, access roads, electrical infrastructure, transformers, inverters, controls, and related improvements.

SECTION 4. Moratorium

For a period of **six (6) months** following the effective date of this Local Law, no application shall be accepted, processed, considered, approved, or acted upon by any Town board, agency, officer, employee, or official for the construction, installation, expansion, enlargement, modification, or operation of a covered BESS.

The moratorium shall apply to:

- A. Stand-alone battery energy storage facilities;
- B. Battery energy storage systems proposed in connection with commercial or utility-scale solar energy systems;
- C. New BESS proposed as additions to existing commercial or utility-scale solar facilities;
- D. Expansion of an existing BESS; and
- E. Material modification of an existing BESS where the modification increases storage capacity, changes battery technology, changes the physical footprint, or materially changes the facility's fire-safety or operational characteristics.

The moratorium shall include applications for site plan approval, special use permits, variances, building permits, zoning permits, certificates of zoning compliance, or other Town approvals to the extent such approvals would authorize a use suspended by this Local Law.

SECTION 5. Residential and Small-Scale Systems

This moratorium is principally intended to address commercial, utility-scale, and other non-residential battery storage facilities presenting substantial land-use or emergency-response considerations.

Ordinary residential battery systems serving an individual dwelling and systems incidental to ordinary residential electrical service are exempt, subject to the New York State Uniform Code, Energy Code, Fire Code, and other applicable laws.

Small-scale commercial systems that are integral to an existing permitted commercial use may be exempt only to the extent they do not constitute a principal or separate use and do not exceed capacity thresholds ultimately determined by the Town.

SECTION 6. Existing Lawfully Existing Systems and Previously Approved Projects

Nothing in this Local Law shall require removal of a battery energy storage system that was lawfully existing and operational before the effective date of this Local Law.

This Local Law shall not invalidate a final, unexpired approval lawfully issued before its effective date. However, no expansion, enlargement, relocation, or material modification of such system shall occur during the moratorium unless exempted herein or separately authorized as permitted by law.

SECTION 7. Exemptions

The moratorium shall not apply to:

- A. Residential-scale battery systems serving an individual dwelling;
- B. Emergency or backup batteries serving critical municipal, public-safety, medical, communications, or similar facilities when installed as part of an existing permitted use;
- C. Temporary battery systems used for emergency response or disaster recovery;
- D. Maintenance or replacement of components of a lawfully existing BESS that does not increase its capacity or materially change its fire-safety characteristics;
- E. Projects for which all required final Town approvals were issued before the effective date of this Local Law; and
- F. Other projects specifically exempted by the Town Board where the exemption is consistent with the purposes of this Local Law and applicable law.

SECTION 8. Pending Applications

Any application pending before the Town on the effective date of this Local Law that has not received all final approvals shall be held in abeyance to the extent permitted by law. The Town's reviewing agencies shall not take action inconsistent with the moratorium during its effective period.

The Building Department and Code Enforcement Officer may continue to administer permits and approvals necessary for lawful maintenance, repair, and safety work on existing facilities.

SECTION 9. Hardship Relief

The Town Board may, after public hearing, grant limited relief from this Local Law upon written findings that strict application would result in extraordinary hardship, reasonable alternatives are unavailable, the requested relief is the minimum necessary, and granting relief would not materially impair the purposes of this Local Law or adversely affect public health, safety, and welfare.

Any relief may be conditioned upon requirements concerning location, capacity, setbacks, fire safety, emergency response, screening, noise, security, decommissioning, and other appropriate safeguards.

SECTION 10. Regulatory Review

During the moratorium, the Town Board shall direct appropriate Town personnel, consultants, and land-use boards to review existing zoning and land-use regulations; NYSERDA's Battery Energy Storage System Model Law and Guidebook; applicable provisions of the New York State Uniform Code and Fire Code; BESS classifications and capacity thresholds; setbacks; fire protection and emergency response; emergency access; noise, lighting, fencing, landscaping and visual screening; stormwater and environmental considerations; decommissioning and financial security; insurance and indemnification; inspection, monitoring, reporting and emergency notification; and compatibility with commercial solar energy systems.

SECTION 11. Enforcement

Any construction, installation, expansion, or use undertaken in violation of this Local Law shall constitute a violation of the Town Code. The Town may pursue all remedies available by law, including stop-work orders, appearance tickets, civil enforcement proceedings, injunctive relief, and recovery of authorized penalties and costs.

SECTION 12. Penalties

Violations shall be subject to the penalties and enforcement remedies authorized by the Town Code and applicable law. Each day that a violation continues may constitute a separate violation to the extent permitted by law.

SECTION 13. Duration and Extension

This Local Law shall remain in effect for **six (6) months** from its effective date.

The Town Board may extend the moratorium for one additional period not exceeding six (6) months by local law, following such public hearing and findings as may be required by law, if additional time is reasonably necessary to complete the review and enact permanent regulations.

SECTION 14. SEQRA

The Town Board shall make the appropriate determination under the State Environmental Quality Review Act. To the extent applicable, adoption of a temporary land-use moratorium may constitute a Type II action under 6 NYCRR Part 617. The Town Board shall confirm the applicable classification before adoption.

SECTION 15. Severability

If any provision of this Local Law is determined by a court of competent jurisdiction to be invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remaining provisions, which shall remain in full force and effect.

SECTION 16. Supersession and Preemption

This Local Law is adopted pursuant to the Town's authority under the New York State Constitution, the Municipal Home Rule Law, Town Law, and other applicable authority. Nothing

herein shall be construed to prohibit or regulate any matter preempted by State or Federal law. This Local Law shall be interpreted consistently with applicable New York State building, electrical, energy, fire, and environmental requirements.

SECTION 17. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law and shall remain in effect for the period specified herein, subject to any lawful extension or earlier repeal by the Town Board.

CERTIFICATION

I, the undersigned Town Clerk of the Town of Lewiston, hereby certify that the foregoing is a true and correct copy of Local Law No. ____ of 2026, duly adopted by the Town Board of the Town of Lewiston and filed as required by law.

Tamara Burns, Town Clerk
Town of Lewiston, New York

Date: _____