

TOWN OF FLOYD LEGAL NOTICE

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that a public hearing will be held by the Town Board of the Town of Floyd on August 11, **2026** at 5:45 PM. in the Town Board Room, Municipal Center, 8299 Old Floyd Road, Rome, New York 13440, regarding the consideration and proposed adoption of the following Local Law:

Introductory Local Law No. 5 of 2026

“A Local Law Establishing a Temporary Moratorium Prohibiting Battery Energy Storage Systems within the Town of Floyd”

A copy of the proposed Local Law is on file and available for public inspection during regular business hours at the Office of the Town Clerk, located at the Municipal Center, 8299 Old Floyd Road, Rome, New York 13440. It is also available on the official Town of Floyd website.

All residents, property owners, and interested persons of the Town of Floyd are entitled to attend and be heard in support of, or in opposition to, the proposed Local Law, or any part thereof, at the aforementioned public hearing.

Dated: July 27, 2026

BY ORDER OF THE TOWN BOARD OF THE TOWN OF FLOYD

TRACY SEXTON, TOWN CLERK

Town of Floyd, Oneida County, New York

TOWN OF FLOYD LOCAL LAW NO. 5 OF 2026

A LOCAL LAW ESTABLISHING A TEMPORARY MORATORIUM PROHIBITING BATTERY ENERGY STORAGE SYSTEMS WITHIN THE TOWN OF FLOYD

Be it enacted by the Town Board of the Town of Floyd as follows:

SECTION 1. TITLE.

This Local Law shall be known as the "Temporary Moratorium on and Prohibition of Battery Energy Storage Systems within the Town of Floyd."

SECTION 2. STATUTORY AUTHORITY; PURPOSE AND INTENT.

This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Floyd under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(i); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and 14; Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statute of Local Government § 10(1), (6), and (7); Town Law § 64 (17-a); Town Law § 130(3) and (15); Town Law § 135; Town Law Article 16 (Zoning & Planning) inclusive; Environmental Conservation Law 3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this Local Law.

This Local Law is a land use regulation. This Local Law is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Town to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive "incidental control" of a zoning law and land use law that is concerned with the broad area of land use planning and the physical use of land and property within the Town, including the physical externalities associated with certain land uses, such as potential negative impacts of such uses on a community.

This Local Law shall supercede and suspend those provisions of the Zoning Code of the Town of Floyd and New York State Law which require the Planning Board, Zoning Board of Appeals and/or the Town Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

This Local Law is intended to temporarily prohibit the creation or siting of battery energy storage systems (as herein later defined) within the Town of Floyd for a period of up to twelve (12) months. The express purpose of this Local Law is to allow the Town of Floyd adequate time to study, draft, and adopt revisions to the Zoning Code of the Town of Floyd to include the comprehensive regulation of Battery Energy Storage Systems (BESS). It is deemed necessary to enact this temporary moratorium in order to permit the Town of Floyd adequate time in which to draft suitable zoning regulations for this purpose.

The Town Board of the Town of Floyd recognizes and acknowledges that the Town needs to study and analyze many considerations that affect the preparation of local legislation to regulate the future creation

and siting of Battery Energy Storage Systems (BESS), based on recent changes in the law, safety and environmental guidelines, and the Town's experience with such land uses. The Town Board, together with the Zoning Board of Appeals and the Planning Board of the Town of Floyd, will identify and review local laws from other jurisdictions, and related information and source materials, as well as their experiences with issues relating to the siting of such systems, in order to assist in developing the parameters of a local law to better regulate Battery Energy Storage Systems (BESS). The Town Board has directed the Attorney for the Town of Floyd to assist in this endeavor.

The Town Board of the Town of Floyd also recognizes the need to review and examine its existing ordinances and zoning local laws regulating the creation and/or siting of such systems. It is deemed necessary to enact this moratorium in order to permit the Town of Floyd adequate time in which to draft suitable legislation for this purpose. During the term of the moratorium, the Town of Floyd shall work to prepare and eventually adopt any necessary revisions amending the Town's existing Zoning Code to include the regulation of Battery Energy Storage Systems (BESS).

For these reasons, the Town Board of the Town of Floyd finds that temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to develop and adopt necessary zoning and land use changes to the Zoning Code of the Town of Floyd, thus protecting and furthering the public interest, health and safety.

SECTION 3. DEFINITIONS.

For purposes of this Local Law, the following terms shall have the meanings respectively set forth below:

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 stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

- A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
- B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

SECTION 4. TEMPORARY MORATORIUM and PROHIBITION.

- A. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no application for a permit, zoning permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official agent of the Town of Floyd, for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Town of Floyd, for any battery storage systems, as defined above. Nothing herein shall be construed to prohibit the acceptance, consideration or processing of a site plan application, or the issuance of any associated permits

and/or approvals in connection therewith, for projects involving battery storage systems that were filed and accepted prior to the effective date of this local law.

B. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no Person shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Town of Floyd for any battery storage systems, as defined above.

C. The prohibitions set forth above in Subsections A. and B. of this Section 4, are not intended, and shall not be construed, to prevent or prohibit the use and development battery storage system for any personal or individual use on or about any residence or place of business, or any farm operation, so long as such use does not produce energy for the purpose of resale to or by any third party. The term "resale to or by any third party" as used immediately above shall not be construed to include any individual or business that directs such produced energy back into the public grid solely to off-set their own energy consumption.

D. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is twelve (12) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating the Town Board has determined that the need for this moratorium and prohibition no longer exists.

E. This moratorium and prohibition shall apply to all real property within the Town of Floyd, and all land use applications of the siting or creation of battery storage systems within the Town of Floyd.

F. Under no circumstances shall the failure of the Town Board of the Town of Floyd, the Zoning Board of Appeals of the Town of Floyd, the Planning Board of the Town of Floyd, or the Code Enforcement Officer for the Town of Floyd to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

SECTION 5. HARDSHIP VARIANCE RELIEF FROM APPLICABILITY OF MORATORIUM.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this local law following a noticed public hearing before the Town Board, at which hearing the Town Board may consider:

A. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other environmental concerns.

B. The impact of the proposed application on the applicant's premises and upon the surrounding area.

C. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.

- D.** Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of Floyd.
- E.** The written opinion of the Town of Floyd Planning Board and the Town of Floyd Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.
- F.** Such other reasonable considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be consistent with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner which is unique to the property owner, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the recommendations of the Comprehensive Plan.

An application for relief of application of the moratorium shall be accompanied by a fee of \$500, together with the applicant's written undertaking, in a form to be approved by the Attorney for the Town, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application, including but not limited to any fees incurred by the Town for services provided by the Attorney and/or Engineer for the Town.

SECTION 6. PENALTIES.

- A.** Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500) or imprisonment for not more than 10 days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) or imprisonment for a period of not more than 30 days, or both. For purposes of this Section A., each day that a violation of this Local Law exists shall constitute a separate and distinct offense.
- B.** Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.
- C.** In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all costs incurred by the Town relative thereto, including attorney's fees, and such amount shall be determined and assessed by the Court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the property(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

SECTION 7. CONFLICTS.

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Code provision.

SECTION 8. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstances, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstance, such invalid or unenforceable provision shall be and be deemed severed here from, and the Town Board hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, portion hereof is severed or declared invalid or unenforceable.

SECTION 9. EFFECTIVE DATE.

The effective date of this Local Law shall be immediately upon its filing with the Secretary of State.

