

NOTICE OF ADOPTION OF RESOLUTION

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Babylon, County of Suffolk, State of New York, at a regular meeting thereof held on the 5th day of January, 2026, duly adopted a resolution, an abstract of which is as follows:

RESOLUTION NO. 45 JANUARY 5, 2026
ADOPTING LOCAL LAW NO. 2 OF 2026
EXTENDING THE TEMPORARY MORATORIUM ON BATTERY ENERGY
STORAGE SYSTEM FACILITIES IN THE TOWN OF BABYLON

WHEREAS, the Town Board of the Town of Babylon duly called and held a Public Hearing at Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst NY 11757 on the 17th day of December, 2025 upon the question of the enactment of Local Law No. 2 of 2026 of the Town of Babylon, Suffolk County, New York, being such a local law; and

WHEREAS, in accordance with Part 617.5(c.)(26), State Environmental Quality Review (SEQR), the adoption of this local law is classified a Type II Action and not subject to environmental review under SEQR; and

NOW, THEREFORE, be it

RESOLVED AND ORDAINED, by the Town Board of the Town of Babylon, that Local Law No. 2 of 2026 of the Town of Babylon, Suffolk County, New York, is hereby enacted as follows:

Local Law No. 2 of the Year 2026

SECTION I.
SHORT TITLE

This local law shall be cited as Local Law No. 2 of 2026 of the Town of Babylon and it is entitled the “2026 Moratorium Law on Battery Energy Storage System Facilities.”

SECTION II.
LEGISLATIVE FINDINGS

WHEREAS, on Long Island, communities 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 Babylon Fire Marshal’s Office, Department of Environmental Control, 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, following the third fire at a battery energy storage facility in as many months in New York this summer, Gov. Kathy Hochul announced the creation of a state inter-agency 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 continue to 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, the Town of Babylon is a densely developed suburban Town and careful analysis of the land use and potential suitable locations of these facilities be must be undertaken to protect human health and the environment; and

WHEREAS, the Town of Babylon has eleven environmentally sensitive watersheds, floodplains, the Great South Bay, Special Groundwater Protection Areas and Deep Recharge Zones that must be protected from any potential hazardous materials releases that could harm such water resources; 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, on June 5, 2024 the Town Board enacted Local Law 11 of 2024 to place a six-month moratorium on all BESS facilities; and

WHEREAS, on December 4, 2024, the Town Board enacted Local Law 23 of 2024 to continue the moratorium on all BESS facilities for an additional six months; and

WHEREAS, on July 9, 2025 the Town Board enacted Local Law 8 of 2025 to further extend the moratorium on all BESS facilities for an additional six months, noting that the moratorium “may be extended by a period of up to six (6) months by resolution of the Town Board upon a finding of the necessity for such extension”;

WHEREAS, it is necessary for the Town of Babylon to extend the temporary moratorium further, so as to continue to 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 Babylon has determined that in accordance with Section 617.5(c)(30) SEQR the adoption of a moratorium on applications for building permits and/or certificate of occupancies 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.

IT IS THEREFORE FOUND BY TOWN OF BABYLON TOWN BOARD that the Town of Babylon shall implement a further moratorium to allow for a comprehensive and deliberate examination of BESS facilities and the recently introduced state inter-agency working group, with the aim of preserving the Town's ability to address the unique needs and concerns of its 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 Babylon 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 Planning Department or the Department of Environmental Control of the Town of Babylon for any battery energy storage system facilities, or stand-alone.
- (B) This moratorium may be extended by a period of up to six (6) additional 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 the 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 within 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 effect immediately, as provided by law, upon filing with the New York State Secretary of State.

Dated: January 5, 2026, Town of Babylon

BY ORDER OF THE TOWN BOARD, TOWN OF BABYLON
GERALDINE COMPITELLO, TOWN CLERK