

## LOCAL LAW NO. 4 OF 2025

A LOCAL LAW amending §196-2B (Words defined); §196-15A (Permitted uses in Light Industry Districts) and §196-16F (Uses restricted) to amend the definition of nonnuisance industry, add definitions and listed permitted uses of indoor recreation, small/large scale solar energy systems, and battery energy storage system less than 600 kwh, and clarify the prohibition of bulk fuel storage facilities.

BE IT ENACTED by the Board of Trustees of the Village of Quogue as follows:

**SECTION 1. Legislative Intent.** The Village of Quogue has long been recognized as a small residential Village that has maintained a great sense of community by balancing reasonable development to serve the needs of its residents with the protection of the surrounding natural environment, including the ocean, bays and headwaters along the southern portions, and the pine barrens to the north. Since the inception of the first Village Zoning Ordinance in the 1940s, the Village has limited potential nuisance uses that that could detrimentally impact the environment or the health, safety or welfare of Village residents. In addition to the restrictions set forth in the various zoning districts, §196-16 of the Zoning Law sets forth a general list of such nuisance uses and activities that are prohibited throughout the Village. Recent inquiries and proposals have been made to the Village or to the surrounding Towns and Villages related to potential nuisance uses that include the construction of large-scale, commercial battery energy storage systems (“BESS”), or large scale, commercial solar energy systems, bulk fuel storage and distribution facilities or other similar commercial facilities.

BESS: After adopting the model laws for the regulation of BESS suggested by the State, the Town of Southampton realized that such regulations did not reflect the local conditions and adequately protect the environment, nor the public health, safety or welfare of Town residents. The Town thereafter adopted a moratorium to study amendments. The Town of Southampton Battery Energy Storage Steering Committee, empaneled by the Town Board, adopted an Interim Report, dated November 21, 2024, that made certain recommendations with respect to locating battery energy storage systems in the Town. The Interim Report identifies the known detriments of BESS to the health, safety, and welfare to the residents of the Town (which includes Village residents) and potential impacts to the environment. Although the Committee’s role is to address Town Code amendments, the recommendations provide guidance that is relevant to protecting Village residents and the environment as well. Among the recommendations, it is determined that large scale, commercial BESS with a capacity exceeding 600 kWh should not be located in residential zones, and should only be located on one-acre or greater lots located in industrial zones with proper setbacks from any school, hospital or similar high occupancy use, and any residential property (i.e. a minimum of 300’ separation from lot-line to lot line). The Village’s Light Industry (“LI”) districts occupy the lands between Old Country Road on the north, the Village line on the east, the LIRR on the south and taper to a point near the Quogue Wildlife Refuge on the west. The LI districts are approximately 1,000 feet in width at their widest point. The lands surrounding the LI districts are all residentially zoned and developed. There are maybe only one or two industrial zoned properties comprising one acre in size that are, in their entirety, setback more than 300 feet from lot-line to lot line of a residential property. Like most of the remainder of the properties in the LI districts, these 1-2 lots are already improved with no

room to add a larger capacity BESS facility. Moreover, the Village's LI districts are located within the Compatible Growth Area of the Central Pine Barrens, which among other things, restricts the clearing of natural vegetation. Recent drought periods have heightened concerns for the establishment of industrial facilities with associated fire safety risks in the Central Pine Barrens. Therefore, in recognition of the findings and recommendations of the Interim Report, it is the intent of this Local Law to provide definitions related to BESS and amend the list of permitted uses in the LI districts to permit a BESS with a capacity of less than or equal to 600 kWh as a special exception use when authorized by the Board of Trustees. By its omission, a BESS with a capacity exceeding 600 kWh is prohibited and is not listed as a permitted use in any district in the Village. The Village will continue to monitor the Town and State's progress with the study and update of siting and operational standards for permitted BESS facilities.

Solar Systems: Like BESS facilities, the surrounding Towns and Villages have adopted regulations governing the installation of solar energy systems. Unlike those codes, the Quogue Village Code does not currently provide guidance with respect to development of residential scale solar energy system, or either small scale or large scale commercial solar energy systems. A review of reference materials related to commercial solar energy systems, including a proposal on a nearby property in Quogue owned by the Village of Westhampton Beach, have revealed potential negative impacts to the health, safety and welfare of Village residents and the environment that may arise with the installation and operation of large scale commercial solar energy systems. Therefore, like situations that may arise with large scale BESS facilities, it is the intent of this Local Law to provide definitions related to solar energy systems and amend the list of permitted uses in the LI districts to permit a large-scale solar energy system only as a special exception use when authorized by the Board of Trustees. A small-scale solar energy system shall be permitted in all zoning districts subject to compliance with other applicable regulations and standards. The Village will continue to monitor the Town and State's progress with the study and update of siting and operational standards for permitted solar energy systems.

Nonnuisance Industry Uses: As noted, like the matters related to BESS and large-scale commercial solar energy systems, the Village has encountered an application and related proceedings concerning the installation and operation of bulk propane fuel storage and distribution facility. The Zoning Code does not currently list a bulk propane fuel storage and distribution facility or any similar bulk fuel storage use as one of the listed permitted uses and, therefore, is a prohibited use. Furthermore, §196-16D and F current provide:

D. Operating, conducting or maintaining any business, industry or other affair or enterprise which emits any noxious, nauseous, injurious, polluting or other offensive or obnoxious smoke, dust, odor, gas, fumes, residue, liquid or noise.

F. A brewery, distillery, ice manufactory, foundry, manufacture or storage or sale of explosives, wholesale manufactory of any material, wholesale gasoline or oil or coal or lumber or building material or any other wholesale commodity storage or commercial yard or establishment, other than a vegetable, fodder, flower, shrubbery or tree nursery or farm.

The Building Inspector and the Zoning Board of Appeals ("ZBA") both found under the above referenced sections that a bulk propane fuel storage and distribution facility is prohibited.

Nonetheless, one applicant insisted that such a bulk propane fuel storage and distribution facility should be considered to be a nonnuisance use. The Building Inspector and the ZBA both found after analysis of the entirety of the Code that due to the potential nuisances associated with bulk fuel storage that could impact the health, safety and welfare of residents, and the environment, the bulk propane fuel storage and distribution facility cannot be considered to be a nonnuisance use. This Board agrees with the interpretations of the Building Inspector and ZBA, but to avoid any further confusion or misinterpretation of the intent and purpose of the code, it is the intent of this local law to amend the definition of nonnuisance industry to add standards where a nonnuisance industry use cannot include the bulk storage of fuel or flammable materials in any form in excess of 2,000 gallons, except the storage of fuel used on-site in conjunction with heating or use of the building, nor include the processing or storage of flammable, hazardous or toxic chemicals or substances. Like BESS and large scale commercial solar energy systems, a bulk fuel storage and distribution facility adds unreasonable safety risks to the surrounding residential areas, particularly in the event of an accident. Moreover, the Village's LI districts are located within the Compatible Growth Area of the Central Pine Barrens, which among other things, restricts the clearing of natural vegetation. Recent drought periods have heightened concerns for the establishment of industrial facilities with associated fire safety risks in the Central Pine Barrens. In the furtherance of these concerns, it is also the intent of this Local Law to amend §196-16F of the Zoning Law to clarify that the bulk storage, retail, wholesale and distribution of fuel in any form is prohibited in the Village except for the storage of fuel used for heating or servicing of an on-site building(s) or use(s) on the lot, or the storage of fuel associated with a gasoline filling station in a Business district that conforms to applicable standards.

Indoor Recreation Uses. The Village Code does not currently provide guidance with respect to development of indoor recreation uses, particularly indoor recreation designed for training and exercise activities. Such indoor recreation uses often require larger spaces which can be found in industrial buildings. It is expected that such an indoor recreation facility will not advertise and generate public spectators in any form, but there may be limited areas where parents dropping off and attending their children's training activities may wait and watch the training activities. Thus, permitting indoor recreational facilities where no fixed seating or designated areas for public spectators at such a facility will minimize potential traffic impacts that public spectator events would otherwise generate. Other impacts and compatibility with nearby industrial uses can be reviewed and monitored through the special exception and site plan review processes. Therefore, it is the intent of this local law to amend the list of permitted uses in the LI districts to permit indoor recreation uses without fixed seating or designated public spectator areas as a special exception use when authorized by the Board of Trustees.

**SECTION 2. Amendment.** Section 196-2B (Words defined.) is amended to add underlined words as follows:

B. Words defined. As used in this chapter, the following terms shall have the meanings indicated:

BATTERY(IES) –A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. Batteries utilized in consumer products are excluded from zoning

requirements.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM — An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

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 twelve-volt car battery or an electric motor vehicle.

CELL — For the purpose of battery energy storage, a cell is defined as the basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

NONNUISANCE INDUSTRY — An industry which is not detrimental to the environment in which it is located by reason of the emission of smoke, noise, odor, dust, vibration or excessive light beyond the limits of its lot or by reason of generating excessive traffic with attendant hazards; which does not require domestic or process water in excess of 40 gallons per employee or discharge any effluent into the ground that does not meet Suffolk County Health Department standards designed to protect against contamination or pollution; which does not include the bulk storage of fuel or flammable materials in any form in excess of 2,000 gallons, except the storage of fuel used on-site in conjunction with heating or use of the building; which does not include the processing or storage of flammable, hazardous or toxic chemicals or substances; and which does not include an open accessory storage yard (outdoor storage) unless completely enclosed by a solid wall or fence not less than six feet in height; and which does not include outdoor processing of materials.

SOLAR ENERGY SYSTEM — A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, or other means.

SOLAR ENERGY SYSTEM, LARGE-SCALE — A solar energy system that occupies 5,001 square feet of surface area or more.

SOLAR ENERGY SYSTEM, SMALL-SCALE — A solar energy system that occupies 5,000 square feet of surface area or less. A small-scale solar energy system shall be permitted in all zoning districts subject to compliance with other applicable regulations and standards.

**SECTION 3. Amendment.** Section 196-15A (Light Industry districts) is amended to add underlined words as follows:

**§196-15. Light industry districts.**

- A. In the Light Industry LI-1 and LI-2 Districts, no land, building or structure shall be used for, nor any building or structure erected, reconstructed, remodeled, altered and maintained for any use, except the following:
- (1) Park, playground or recreational area when authorized or operated by the municipality, as a special exception use, when authorized by the Board of Trustees, subject to such conditions as may be imposed by the municipality to prevent adverse effects upon nearby properties.
  - (2) Cemetery.
  - (3) Municipal facility.
  - (4) Greenhouse, plant nursery.
  - (5) Telephone exchange, communication facility, provided that no communication tower or other facility shall exceed 32 feet in height.
  - (6) Wholesale and retail lumberyard or other building outlet.
  - (7) Nuisance industry, as a special exception use when authorized by the Board of Trustees.
  - (8) Research institute or laboratory.
  - (9) Storage yard. (Any outdoor storage must be screened and enclosed by a fence or wall six feet in height.)
  - (10) Office and shop for plumber, electrician, home improvement contractor (no outdoor storage).
  - (11) Warehouse for indoor storage.
  - (12) Office building, business or professional or mixed.
  - (13) Office and facilities for veterinarian as a special exception use when authorized by the Board of Trustees.
  - (14) Indoor recreation uses without fixed seating or designated public spectator areas as a special exception use when authorized by the Board of Trustees.
  - (15) Solar energy system, large scale, as a special exception use when authorized by the Board of Trustees.
  - (16) Battery energy storage systems having an aggregate energy capacity less than or equal to 600 kWh, as a special exception use when authorized by the Board of Trustees. Battery energy storage systems having an aggregate energy capacity exceeding 600 kWh are prohibited.

**SECTION 4. Amendment.** Section 196-16F (Uses restricted.) is amended to delete strikethrough words and add underlined words as follows:

**§196-16. Uses restricted.** No land, building or structure, or any part thereof, within the incorporated limits of the Village of Quogue, New York, and no waters within or outside of said limits under the jurisdiction of said Village shall be used or permitted to be used for any of the following uses or purposes in any manner or in any degree whatsoever, permanently or temporarily, by anyone whomsoever, including the allowing of any of the following conditions to exist or continue:

- F. A brewery, distillery, ice manufactory, foundry, manufacture or storage or sale of explosives, wholesale manufactory of any material, wholesale, retail or distribution of gasoline, natural gas, propane, ~~or~~ oil, ~~or~~ coal, firewood, or other bulk fuel storage or

distribution business, or ~~wholesale, lumber or building material~~ or any other wholesale or retail commodity storage or commercial yard or establishment, other than a vegetable, fodder, flower, shrubbery or tree nursery or farm. Nothing herein shall preclude the storage of fuel used for heating or servicing of the on-site building(s) or use(s) on the lot, or the storage of fuel associated with a gasoline filling station in a Business district that conforms to applicable standards.

**SECTION 5. AUTHORITY.** The proposed local law is enacted pursuant to Village Law §7-712, as well as Municipal Home Rule Law §§10(1)(i), 10(1)(ii)(a)(11), 10(1)(ii)(a)(12), and 10(2).

**SECTION 6. SEVERABILITY.** If any section or subsection, paragraph, clause, phrase, or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole, or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

**SECTION 7. EFFECTIVE DATE.** This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.