

**TOWN OF BINGHAMTON**  
**TOWN BOARD**  
**October 18, 2022**

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Town of Binghamton
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**MINUTES OF THE REGULAR MEETING OF THE TOWN OF BINGHAMTON TOWN BOARD HELD ON TUESDAY, OCTOBER 18, 2022, 7:00 P.M., TOWN OF BINGHAMTON TOWN HALL, 279 PARK AVENUE, BINGHAMTON, NEW YORK.**

The meeting was called to order at 7:01 p.m. by Supervisor Rounds.

**ROLL CALL:**

E. Rounds, Supervisor	Present	M. Leighton, Councilperson	Present
M. Bensley, Councilperson	Present	D. Nye, Councilperson	Present
M. Donahue, Deputy Supervisor	Present		

**OTHERS PRESENT:**

V. Conklin, Town Clerk	R. Mastin, TOB Planning Board Member
A. Pope, Town Attorney	K. Olds, TOB Volunteer Fire Co./TOB
G. Middleton, Esq., Coughlin & Gerhart	ZBA Member
R. Rolston, Highway Superintendent	0 Guests
Z. Soboleski, Assistant Codes/Buildings & Grounds	

**PUBLIC HEARINGS – 7:02 p.m. – Proposed Cannabis Distribution Local Law within the Town of Binghamton**

Town Clerk Conklin affirmed that the Notice of Public Hearing had been properly posted and published. The purpose of the Public Hearing is to consider public input on the proposed Cannabis Distribution Local Law within the Town of Binghamton. Supervisor Rounds went over the proposed Cannabis Distribution and Consumption Local Law, a copy of which is appended hereto.

Supervisor Rounds opened the floor to the public at 7:04 p.m.

There being no presentations, the floor was declared closed at 7:04 p.m.

A motion was made by Councilperson Nye to adopt a Resolution to approve the Town of Binghamton Cannabis Distribution and Consumption Local Law to the Town of Binghamton Code, and the motion was duly seconded by Councilperson Bensley. There was discussion. All those present voted in favor of the motion. Motion carried. A roll call vote resulted in the following:

Ayes: Rounds, Donahue, Bensley, Nye, Leighton      Absent: None

Nays: None

Abstained: None

Declared adopted.

(Notice of Public Hearing Appended)  
(Local Law #4 of 2022 Appended)  
(Resolution Appended)

**7:06 p.m. – Proposed Battery Energy Storage Systems Local Law  
within the Town of Binghamton**

Attorney Middleton provided the Board with a schedule of fees and permit application for the Battery Energy Storage Systems. There was discussion. Town Clerk Conklin affirmed that the Notice of Public Hearing had been properly posted and published. The purpose of the Public Hearing is to consider public input on the proposed Battery Energy Storage Systems Local Law within the Town of Binghamton.

Supervisor Rounds opened the floor to the public at 7:06 p.m.

There being no presentations, the floor was declared closed at 7:06 p.m.

There was discussion. A motion was made by Councilperson Leighton to adopt a Resolution to approve the Town of Binghamton Battery Energy Storage Systems Local Law to the Town of Binghamton Code, and the motion was duly seconded by Councilperson Bensley. There was discussion. A motion was made by Councilperson Leighton to adopt a Resolution to amend the Town of Binghamton Battery Energy Storage Systems Local Law as follows: Page 5, 2.C.1. The words “without first obtaining a variance”, are removed, and reads as follows: “A Tier 2 battery energy storage system is not allowed in a residential or rural residential zoned district.”, and Page 5, 2.C.3. The word “are” is removed and replaced with the words “may be”, and reads as follows: “All Tier 2 battery energy storage systems may be subject to the Town’s Road Use and Preservation local law (Chapter 171 Road Use and Preservation).”, and the motion was duly seconded by Councilperson Bensley. All those present voted in favor of the motion. Motion carried. A roll call vote resulted in the following:

Ayes: Rounds, Donahue, Bensley, Nye, Leighton      Absent: None

Nays: None

Abstained: None

Declared adopted.

(Notice of Public Hearing Appended)  
(Local Law #5 of 2022 Appended)  
(Resolution Appended)

**Supervisor Rounds stated: A motion may be made to go into an executive session to discuss a legal matter and/or a personnel matter regarding a particular employee after the meeting is convened.**

## **APPROVAL OF AUDITED CLAIMS:**

Councilperson Leighton made a motion to adopt a Resolution to approve the following claims as audited:

Lighting	Claim No. 819	\$ 30.30
Sewer	Claim No. 820-821	\$ 109,800.83
Water	Claim No. 821-824	\$ 1,254.68
Highway	Claim No. 825-840	\$ 24,016.76
General	Claim No. 841-868	\$ 32,944.06

The motion was duly seconded by Councilperson Bensley. All those present voted in favor of the motion. Motion carried. A roll call vote resulted in the following: .

Ayes: Rounds, Donahue, Nye, Leighton, Bensley      Absent: None

Nays: None

Abstained: None

Declared adopted.

(Resolution Appended)

## **RECOGNITION OF MINUTES:**

There were no corrections made to the October 4, 2022 Work Session minutes or the October 11, 2022 Special Budget Meeting minutes.

## **VOICE OF THE PUBLIC:**

Supervisor Rounds opened the floor to the public for comments at 7:45 p.m.

There being no presentations, the floor was declared closed at 7:45 p.m.

## **COMMUNICATIONS AND ANNOUNCEMENTS:**

Highway Department – Fall Tree Branch and Brush Pickup – September 19, 2022 thru October 21, 2022

Highway Department – Leaf Pickup – October 17, 2022 thru November 23, 2022

## **OFFICIALS AND COMMITTEE REPORTS:**

Planning Board – A meeting was held last evening, October 17, 2022. The next regularly scheduled quarterly meeting will be held on January 9, 2023 at 6:30 p.m. at the TOB Town Hall.

Zoning Board of Appeals – A meeting was held last evening, October 17, 2022, which was a public hearing regarding the proposed Sigma Solar Powderhouse Road/Ingraham Hill Road solar farm. The entrance point for the proposed solar farm was changed from Ingraham Hill Road to Powderhouse Road. The next scheduled meeting will be held on Monday, November 14, 2022 at 6:30 p.m. at the TOB Community Center.

Youth Commission – Football is over. Basketball signups are taking place. The next regularly scheduled meeting will be held on Thursday, October 20, 2022 at 6:00 p.m.

Code Enforcement/Buildings and Grounds – The sidewalk is going in by the new bathroom at Jackson Park, which is framed up and will be poured next week. The new sign is up at Jackson Park. The concrete will be finished up around the new sign. The concrete pad for the new sign at the Town Hall has been poured. The Ring doorbell for the Court entrance is working out so far. The programming for the keys at the Community Center was working when Mr. Soboleski was there, but Saturday he received a call that it was not working. He has an app that will allow him to unlock the door without having to go to the Community Center.

Highway Department – A few more trees have been cut down. More brush work is being done. Some strip paving has been done. Patching has been finished. They are getting ready for winter (salt and sand). They are picking up brush and leaves.

Receipt of Reports – The Town Board is in receipt of the following reports:

Town Clerk's Monthly Report for September 2022

DCO Monthly Report for September 2022

Code Enforcement Officer's Monthly Report for September 2022

TOB Volunteer Fire Co. – There have been 15 calls since the last Town Board meeting.

Supervisor – Supervisor Rounds reported that she received a Housing Rehabilitation Status Report on the CDBG grant program. There are 12 residents who have qualified for the CDBG grant. Work is in progress on the residences. Robin Laabs, Broome County Director of Purchasing, will attend the November 15, 2022 Town Board meeting to give an update on the 2023 Broome County budget.

The Board decided to have an Executive Session at 5:00 p.m. on November 1, 2022 to discuss a legal matter before the Work Session begins at 5:30 p.m. A Notice will be published in The Country Courier, and posted on the TOB website.

#### **UNFINISHED BUSINESS:**

There was no unfinished business.

#### **NEW BUSINESS :**

TOB Volunteer Fire Co. – 2023 Contract – Set Public Hearing – Supervisor Rounds requested that the Town receive financials from the TOB Volunteer Fire Co. before the public hearing for

the Preliminary Budget, which is scheduled for November 1. A motion was made by Councilperson Bensley to adopt a Resolution to set a public hearing for Tuesday, November 15, 2022 at 7:01 p.m. to consider public input on the TOB Volunteer Fire Co. 2023 Contract, and the motion was duly seconded by Councilperson Nye. All those present voted in favor of the motion. Motion carried. A roll call vote resulted in the following:

Ayes: Rounds, Donahue, Bensley, Nye, Leighton      Absent: None

Nays: None

Abstained: None

Declared adopted.

(Resolution Appended)

Highway Department – Purchase of Pull Behind Compressor - Approval – Highway Superintendent Rolston provided the Board members with three quotes for the purchase of a new pull behind compressor. The old compressor will be put on Auctions International. There was discussion. A motion was made by Councilperson Bensley to adopt a Resolution to approve the purchase of a pull behind Air Compressor 185CFM CP from JC Smith, Inc., in an amount not to exceed \$23,482.00, and the motion was duly seconded by Councilperson Donahue. All those present voted in favor of the motion. Motion carried. A roll call vote resulted in the following:

Ayes: Rounds, Donahue, Bensley, Nye, Leighton      Absent: None

Nays: None

Abstained: None

Declared adopted.

(Resolution Appended)

Passport Fair - Councilperson Nye inquired about the Town having a passport fair. Town Clerk Conklin will provide information to the Board at the November 1, 2022 Work Session regarding the Broome County Clerk's office having a passport fair at the Town Hall.

#### **VOICE OF THE PUBLIC:**

Supervisor Rounds opened the floor to the public for comment at 8:17 p.m.

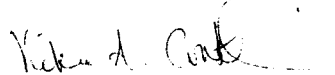
There being no presentations, Supervisor Rounds declared the floor closed at 8:17 p.m.

**ADJOURNMENT:**

A motion was made by Councilperson Bensley to adjourn the meeting at 8:21 p.m., and the motion was duly seconded by Councilperson Leighton. All those present voted in favor of the motion. Motion carried.

*The next meeting of the Town of Binghamton Town Board will be a Work Session to be held on Tuesday, November 1, 2022, 5:30 p.m., at the Town of Binghamton Town Hall, 279 Park Avenue, Binghamton, NY.*

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Vickie A. Conklin", written over a horizontal line.

Vickie A. Conklin  
Town Clerk

**NOTICE OF PUBLIC HEARING  
TOWN OF BINGHAMTON**

**PLEASE TAKE NOTICE** that the Town Board of the Town of Binghamton, Broome County, New York has approved a resolution calling for a public hearing to consider input on the proposed Cannabis Distribution Local Law within the Town of Binghamton. A public hearing will be held on the same at the Town Hall, 279 Park Avenue, Binghamton, New York on Tuesday, October 18, 2022 at 7:01 P.M., at which time all persons interested in the subject matter thereof will be heard. The purpose of the public hearing shall be to receive public input on this issue and to evaluate and consider adoption of the foregoing.

Please take further notice that the proposed Local Law establishing cannabis industry distribution provisions within the Town of Binghamton, which is the subject matter of the public hearing, is available for inspection at the Town Hall in the Town Clerk's office Monday through Friday 9:00 A.M. through 4:00 P.M.

**Dated: September 21, 2022**

**Vickie Conklin, Town Clerk**



**TOWN OF BINGHAMTON**  
**LOCAL LAW NO. 4 OF THE YEAR 2022**  
**A LOCAL LAW ADOPTING CANNABIS DISTRIBUTION AND**  
**CONSUMPTION TO THE**  
**TOWN OF BINGHAMTON CODE**

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

**Section 1.** Under the Authority of the Cannabis Control Board (CCB), the Town of Binghamton hereby creates the following Local Law # 4 to manage the operation of any cannabis distribution sites and to manage the operation of any cannabis consumption sites.

**Section 2.** Cannabis Distribution Sites shall abide by the following restrictions:

1. Hours of operation will be no greater than 9:00am to 12:00am, Sunday through Saturday.
2. The site must be at least 100 yards from any school, historical site, medical facility and any house of worship.
3. Before installing any temporary or permanent signs, the facility operator/owner must contact the code enforcement department to obtain approval.
4. The facility must be located in an existing area zoned Commercial.
5. Appropriate site plan approval and permits must be obtained prior to commencement of operations.
6. Required number of parking spaces is 1 for every 100 square feet of retail facility space.

**Section 3.** Cannabis Consumption Sites shall abide by the following restrictions.

1. Hours of Operation will be no greater than 9:00am to 12:00am, Sunday through Saturday.
2. The site must be at least 500 yards from any school, historical site, medical facility and any house of worship.

3. Product odor must be undetectable within 200 yards in any direction of the facility.
4. Noise levels at the boundary of the facility's parcel must not exceed the permitted volume allowed by the Town Code.
5. Before installing any temporary or permanent signs, the facility operator/owner must contact code enforcement department to obtain approval.
6. The facility must be located in an existing area zoned Commercial.
7. Appropriate site plan approval and permits must be obtained.
8. Required number of parking spaces is 1 for every 100 square feet of retail space.

**Section 4.** This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with section twenty-seven (§27) of the Municipal Home Rule Law.

**NOTICE OF PUBLIC HEARING  
TOWN OF BINGHAMTON**

**PLEASE TAKE NOTICE** that the Town Board of the Town of Binghamton, Broome County, New York has approved a resolution calling for a public hearing to consider input on the proposed Battery Energy Storage Systems Local Law within the Town of Binghamton. A public hearing will be held on the same at the Town Hall, 279 Park Avenue, Binghamton, New York on Tuesday, October 18, 2022 at 7:02 P.M., at which time all persons interested in the subject matter thereof will be heard. The purpose of the public hearing shall be to receive public input on this issue and to evaluate and consider adoption of the foregoing.

Please take further notice that the proposed Battery Energy Storage Systems Local Law within the Town of Binghamton, which is the subject matter of the public hearing, is available for inspection at the Town Hall in the Town Clerk's office Monday through Friday 9:00 A.M. through 4:00 P.M.

**Dated: September 21, 2022**

**Vickie Conklin, Town Clerk**

**TOWN OF BINGHAMTON**  
**LOCAL LAW NO. 5 OF THE YEAR 2022**  
**A LOCAL LAW ADOPTING BATTERY ENERGY STORAGE**  
**SYSTEMS TO THE TOWN OF BINGHAMTON CODE**

**BE IT ENACTED** by the Town Board of the Town of Binghamton as follows:

- A. Authority. This section is adopted pursuant to §§ 261 through 263 of the Town Law and §20 of the Municipal Home Rule Law of New York State (NYS), which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community and, in accordance with the NYS Town Law, "to make provision for, so far as conditions may permit, the accommodation of battery energy storage systems and equipment."
- B. Statement of purpose. This section is adopted to advance and protect the public health, safety and welfare of the Town by creating regulations for the installation and use of battery energy storage systems and equipment.
- C. Applicability.
  - (1) The requirements of this section shall apply to all battery energy storage systems permitted, installed, or modified in the Town after the effective date of this section, excluding general maintenance and repair.
  - (2) Battery energy storage systems that have a valid building permit or have been constructed or installed prior to the effective date of this section shall not be required to meet the requirements of this section.
  - (3) Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this section.

**1. DEFINITIONS**

**ANSI:** American National Standards Institute.

**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. For the purposes of this law, batteries utilized in consumer products are excluded from these 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:** A system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems and associated electrical equipment designed to provide electrical power capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12 & 24-volt vehicle 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 600kWh 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.

**CELL:** The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

**COMMISSIONING:** A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

**DECOMMISSIONING:** A formalized plan submitted at the time of submission of a site plan to ensure proper and complete removal of a battery energy storage system and restoration of the property.

**DEDICATED-USE BUILDING:** A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the Uniform Building Code, and complies with the following:

- 1) The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
- 2) No other occupancy types are permitted in the building.
- 3) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- 4) Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
  - 1) The areas do not occupy more than 10 percent of the building area of the story in which they are located.

- 2) A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

**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.

**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.

**FIRE SAFETY COMPLIANCE PLAN:**

**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.

**NEC:** National Electric Code.

**NFPA:** National Fire Protection Association.

**NON-DEDICATED-USE BUILDING:** All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements identified in this Section.

**NON-PARTICIPATING PROPERTY:** Any property that is not a participating property.

**NON-PARTICIPATING RESIDENCE:** Any residence located on Non-participating Property.

**OCCUPIED COMMUNITY BUILDING:** Any building in Occupancy Group A, B, E, I, R, as defined in the Uniform Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

**PARTICIPATING PROPERTY:** A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

**SPECIAL FLOOD AREA/FLOODPLAIN:** The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

**UL:** Underwriters Laboratory, an accredited standards developer in the US.

**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.

## **2. BATTERY ENERGY STORAGE SYSTEMS:**

### **A. General requirements.**

(1) A building permit and an electrical permit shall be required for installation of all battery energy storage systems.

(2) Fee. The following fees as set by resolution of the Town Board must be paid at the time of submission of the application for a building permit, an amended building permit or renewal of a building permit. Additional funds may be required to be held in escrow to pay all Town costs and expenses for engineering or other professional services in review and approval of the application.

(3) Liability Insurance. Proof of all required contractor insurances including liability, automobile and worker's compensation when applying for a Tier 1 and Tier 2 battery energy storage system building permit. Tier 2 battery energy storage system owners/operators must put in place and maintain all required insurances as detailed in section 2.D.i. of this chapter. Failure to obtain and maintain insurance shall result in revocation of the building permit and/or certificate of occupancy or compliance.

(4) All battery energy storage systems, all dedicated-use buildings, and all other buildings or structures that 1) contain or are otherwise associated with a battery energy storage system and 2) are subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town Code.

B. Tier 1 battery energy storage systems shall be permitted in all zoning districts, as an accessory use subject to the Uniform Code and the battery energy storage system permit, and shall be shown on plans submitted for the building permit application for the building containing the system. Tier 1 battery energy storage systems are exempt from site plan review.

a. Battery energy storage systems for one- or two-family residential dwelling units shall not exceed an aggregate energy capacity of the following:

i. Forty kWh within utility closets and storage or utility spaces.

ii. Eighty kWh in attached or detached garages and detached accessory structures.

- iii. Eighty kWh on exterior walls.
    - iv. Eighty kWh outdoors on the ground.
  - b. All outside Tier 1 battery energy storage systems shall only be installed in side or rear yards and meet the minimum lot size and standard setbacks in the zoning district for principal structures. Heights are limited to 6.5 feet for any external battery energy storage systems.
  - c. All outside Tier 1 battery energy storage systems shall provide a fire safety compliance plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
  - d. All outside Tier 1 battery energy storage systems shall not have an area greater than 225 square feet for a single energy storage system, and all systems in the aggregate shall not occupy more than 25% of the area of the required rear or side yard.
  - e. All Tier 1 battery energy storage systems shall be required to have onsite fire suppression equipment as dictated by the New York State Fire Code.
  - f. Right to Inspect. If the Code Enforcement Officer receives a complaint or requests access to the battery energy storage system the property owner shall allow the Code Enforcement Officer along with any electrical, fire or other professional inspector access to the property and the system. If it is determined after inspection that a hazard has been identified, the battery energy storage system shall be removed, replaced or remedied within ninety (90) days of notice from the Code Enforcement Officer.
  - g. Abandonment and Decommissioning. Any Tier 1 battery energy storage system which has been determined to be non-functioning or abandoned shall be decommissioned and removed. The owner of the system and owner of the land upon which the system is located shall be jointly and severally responsible to physically remove and properly dispose of all components of the system within three (3) months of the determination of the system to be non-functioning or abandoned.
- C. Requirements for Tier 2 battery energy storage systems:
- 1. A Tier 2 battery energy storage system is not allowed in a residential or rural residential zoned district.
  - 2. A Tier 2 battery energy storage system may be classified as either a principal use or accessory use in accordance with Town zoning laws.
  - 3. All Tier 2 battery energy storage systems may be subject to the Town's Road Use and Preservation local law (Chapter 171 Road Use and Preservation).
  - 4. Site Plan Application.



For the installation of Tier 2 battery energy storage systems, the following site plan requirements apply:

- a. Property lines and physical features, including roads, for the project site.
- b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, and exterior lighting.
- c. A screening and landscaping plan to show adequate measures to screen through landscaping, grading or other means so that views of the storage systems shall be minimized as reasonably practical and feasible from public roadways and adjacent properties.
- d. Location of the battery energy storage system and setbacks from property lines must meet all applicable setback and location requirements for principal and/or accessory structures in the zoning district in which it is located.
- e. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- f. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.
- g. Name, address, and contact information of the proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of a building permit.
- h. Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
- i. Zoning district designation for the parcel(s) of land comprising the project site.
- j. Commissioning plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, battery energy storage system commissioning shall be conducted by a New York State (NYS) licensed professional engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Building Inspector prior to final inspection and approval and shall be maintained at an approved on-site location.
- k. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform

Code.

- l. Operation and maintenance manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information, and shall meet all requirements set forth in the Uniform Code.
- m. Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
- n. Prior to the issuance of the building permit, recommendation by the Planning Board, and final approval by the Town Board, it shall be required that the applicant provide engineering documents signed and sealed by a NYS licensed professional engineer.
- o. Emergency operations plan. A copy of the emergency operations plan reviewed by the Town Engineer, Fire Company, Code Enforcement Officer and approved by the Town Board shall be provided by the system owner and copies given to the property owner (if applicable), the local Fire Department and the local code official. Digital and hard copies shall be provided to the Town Code Enforcement Officer and Fire Company. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
  - i. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
  - ii. Procedures for inspection and testing of associated alarms, interlocks, and controls.
  - iii. Procedures to be followed in response to notifications from the battery energy storage management system, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to Fire Company personnel for potentially hazardous conditions in the event of a system failure.
  - iv. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the Fire Company, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
  - v. The owner/operator of the battery energy storage system, at its sole expenses, shall dispatch fire mitigation personnel to respond to any long-term emergency incident, possible re-ignition of a damaged battery energy storage system and remain on duty after the Fire Company leaves the premises until the damaged battery energy storage equipment is

removed from the premises.

- vi. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
  - vii. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility. Any hazardous material must be removed by a qualified company with notice to the Fire Company.
  - viii. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
  - ix. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
- p. Decommissioning Plan. Such plan shall be required prior to the installation of the BES and of the project, including removal of the battery energy storage equipment, cost estimate by a qualified professional engineer estimating the full cost of decommissioning, removal and proper disposal of the battery energy storage system, and restoration of the property back to its original state to be performed by the lessor and/or landowner or any successors in interest thereof at the lessor's and/or landowner's expense and provide cash or a letter of credit for the cost of the decommissioning should any lessor and/or landowner fail to perform the decommissioning of the project. Refer to Section j. "Security" of this law.
- q. The lessor, project owner and landowner shall be required to enter into a decommissioning agreement with the Town.
- D. Conditional use permit. In addition to the other conditional use standards in this chapter, the following conditional use permit standards shall apply for Tier 2 battery energy storage systems:
- a. Bulk requirements. The property on which the Tier 2 battery energy storage system is placed shall meet the lot size, setbacks, and height requirements in accordance with Town zoning.
  - b. Screening and visibility. Tier 2 battery energy storage systems shall be screened to the maximum extent practicable from public roadways and adjacent properties through the use of architectural features, earth berms, landscaping, fencing or other screening methods which harmonize with the character of the subject property and the surrounding area. The screening shall not, however, interfere with the normal operation, ventilation or exhaust ports, or fire safety of the storage system. A covenant regarding the maintenance of any required screening shall be

provided by the applicant.

- c. Access. Vehicular access within the site shall be designed to minimize the extent of impervious materials and soil compaction and meet any applicable emergency access or safety requirements. Minimum access gate size is 20 feet. A knoxbox on the fence is required to be installed by the applicant and/or owner/operator.
- d. Trees and vegetation. The clearing of vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the Tier 2 battery energy storage system.
  - i. Areas within 20 feet on each side of Tier 2 battery energy storage systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt, provided that they do not form a means of readily transmitting fire.
  - ii. Tree removal shall be subject to site plan review pertaining to tree replacement and/or other mitigation.
  - iii. Battery energy storage systems shall not be sited within any required buffer areas.
- e. Fencing. All mechanical equipment shall be enclosed by a 6.5-foot-high fence with a locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
- f. Lighting. Lighting of the battery energy storage systems shall be limited to lighting that is minimally required for safety and operational purposes and shall be reasonably shielded, downcast and does not encroach on abutting properties.
- g. Coverage. The battery energy storage system shall be included in calculating maximum permitted building coverage for the applicable zoning district.
- h. Minimum Lot Size. Per Town of Binghamton Zoning Code.
- i. Liability Insurance. An owner/operator of a Tier 2 battery energy storage system shall secure, and at all times, maintain public liability insurance to cover an personal injuries, death and property damage, and umbrella insurance coverage for the duration of the battery energy storage system in the amounts set forth below:
  - i. Commercial general liability covering personal injuries, death and property damage: \$2,000,000 per occurrence/\$3,000,000 aggregate.
  - ii. Automobile coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
  - iii. Worker's compensation and disability: statutory amounts.

The insurance policies shall be issued by an agent or representative of an insurance

company licensed to do business in the state and with a Best's rating of at least "A."

Renewal or replacement policies or certificates shall be delivered to the Town at least fifteen (15) days before the expiration of the insurance which such policies are to renew or replace.

Prior to initiation of the construction of the battery energy storage system but no later than fifteen (15) days after the grant of the Town's approval, the holder of the site plan approval must deliver to the Town a copy of each of the policies or certifications representing the insurance in the required amounts.

j. Security.

- i. A cash deposit or letter of credit in an amount and form acceptable to the Town Attorney and Town Engineer shall be submitted to the Town, and shall be in an amount sufficient to ensure the good-faith performance of the terms and conditions of the permit issued pursuant hereto, and shall also provide for the removal of the battery energy storage system and restoration of the lot subsequent to removal. The amount of the cash deposit, letter of credit or other security shall be 125% of the cost of removal of the battery energy storage system and restoration of the property with an escalator of 2% annually for the life of the battery energy storage system.
- ii. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit or letter of credit shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, letter of credit or other security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.
- iii. In the event of default or abandonment of the battery energy storage system, the system shall be decommissioned as set forth herein.

k. Abandonment.

- i. Upon cessation of electricity generation of a battery energy storage system on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the battery energy storage system to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.
- ii. The owner/operator of the battery energy storage system must submit an annual report to the Code Enforcement Officer. Failure to submit an annual report may be deemed as abandonment of the battery energy storage system and could also result in revocation of the certificate of compliance and/or certificate of occupancy.
- iii. If the owner and/or operator fails to comply with decommissioning upon abandonment of the battery energy storage system, the Town may, at its

discretion, utilize the cash deposit or letter of credit for the removal of the battery energy storage system and restoration of the site in accordance with the decommissioning plan.

- l. Decommissioning. Battery energy storage systems that have been abandoned and/or not producing electricity for a period of one year shall be removed at the owner and/or operator's expense, which may come from any security made with the Town as set forth herein. Owner/operator must notify the Code Enforcement Officer and Fire Company prior to commencing decommissioning.
  - m. Ownership or operator changes. If the owner or operator of the battery energy storage system changes or the owner of the property changes, the conditional use permit shall remain in effect, provided that the successor owner or operator assumes, in writing, all of the obligations of the conditional use permit, site plan approval and decommissioning plan including providing a letter of credit or cash escrow deposit as security for decommissioning. A new owner or operator of the battery energy storage system shall notify the Code Enforcement Officer of such change in ownership or operator within 30 days of the ownership or operator change. A new owner or operator must provide such notification to the Code Enforcement Officer in writing. The special use permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the Building Inspector in the required time frame. Reinstatement of a void permit will be subject to the same review and approval processes for new applications under this section.
- E. Utility lines and electrical circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
- F. Noise. The noise generated from the battery energy storage systems, components, and associated ancillary equipment shall meet the Town's noise requirement. Applicants may submit equipment and component manufacturer's noise ratings to demonstrate compliance. The applicant may be required to provide operating sound pressure level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.
- G. Signage.
- a. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and twenty-four-hour emergency contact information, including reach-back phone number. The sign shall be placed on the front fence of the system.
  - b. As required by the NEC, disconnect and other emergency shutoff information

shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

- H. Decommissioning plan. The applicant shall submit a decommissioning plan, developed in accordance with the Uniform Code, to be implemented upon abandonment and/or in conjunction with removal from the facility prior to the issuance of a building permit. The decommissioning plan shall include:
- a. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
  - b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
  - c. The anticipated life of the battery energy storage system;
  - d. The estimated decommissioning costs and how said estimate was determined;
  - e. The method of ensuring that funds will be available for decommissioning and restoration;
  - f. The method by which the decommissioning cost will be kept current;
  - g. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
  - h. A listing of any contingencies for removing an intact operational energy storage system from service and for removing an energy storage system from service that has been damaged by a fire or other event.
- I. An application shall not be deemed complete unless it addresses all matters listed in this section, including, but not necessarily limited to, i) compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and ii) matters relating to the proposed battery energy storage system and floodplain, utility lines and electrical circuitry, signage, lighting, vegetation and tree-cutting, noise, decommissioning, ownership changes, safety, and permit time frame and abandonment.
- J. Safety; system certification. Battery energy storage systems and equipment shall be listed by a nationally recognized testing laboratory to UL 9540 (standard for battery energy storage systems and equipment) with subcomponents meeting each of the following standards as applicable:

- a. UL 1973 (standard for batteries for use in stationary, vehicle auxiliary power, and light electric rail applications);
  - b. UL 1642 (standard for lithium batteries);
  - c. UL 1741 or UL 62109 (inverters and power converters);
  - d. Certified under the current applicable electrical, building, and fire prevention codes as required;
  - e. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540, UL9540A and current applicable codes, regulations and safety standards may be used to meet system certification requirements.
- K. Site access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local Fire Company and, if the Tier 2 battery energy storage system is located in an ambulance district, the local ambulance corps. The Town Code Enforcement Officer shall have access to the site for inspections and other matters. The Town Code Officer may bring other officials onsite including the Town Engineer and Fire Company with him as needed at operator's and/or owner's expense.
- L. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

### **3. PENALTIES FOR VIOLATIONS:**

- A. In the event of a violation of this chapter the Town Board may impose and collect fines and/or penalties from the owner and/or operator of the battery energy storage system as set forth below.
- B. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$1,000 or imprisonment for a period not to exceed fifteen days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of \$1,500 or imprisonment for a period not to exceed fifteen days, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of \$2,000 or imprisonment for a period not to exceed fifteen days, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this article or such ordinance or regulation shall be deemed misdemeanors and, for such purpose only, all provisions relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- C. Notwithstanding anything in this chapter, the owner and/or operator of a battery energy storage system may not use the payment of fines, liquidated damages or other



penalties to evade or avoid compliance with this chapter or any section of this chapter. An attempt to do so will subject the owner and/or operator of the battery energy storage system to termination and revocation of the building permit, certificate of compliance and/or certificate of occupancy. The Town may also seek injunctive relief to prevent the continued violation of this chapter, without limiting other remedies available to the Town.

- D. The penalty for failure to maintain insurance shall also include revocation of the building permit, certificate of occupancy and/or certificate of compliance in addition to the fines state above.

#### **4. DEFAULT AND/OR REVOCATION:**

- A. If a battery energy storage system is repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this chapter, then the Code Enforcement Officer shall notify the owner and/or operator of the battery energy storage system in writing of such violation. Such notice shall specify the nature of the violation or noncompliance and that the violation(s) must be corrected within seven days of the date of the postmark of the notice, or the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Code Enforcement Officer may, at his sole discretion order the violation remedied within 24 hours.
- B. If, within the period set forth in Subsection A above, the battery energy storage system is not brought into compliance with the provision of this chapter or substantial steps are not taken in order to bring the affected battery energy storage system into compliance, the Code Enforcement Officer may revoke the building permit, certificate of occupancy or certificate of compliance and shall notify the owner and/or operator of the battery energy storage system within 48 hours of such action.

#### **5. STOP-WORK ORDERS.**

- A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt;
- B. Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, the Zoning Code or any other general or local laws, ordinances, rules or regulations without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work;
- C. Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer without regard to whether such work is or is not work

for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or

- D. Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.

**6. CONFLICT.**

If any of the provisions of this section are found to be in conflict with other provisions of this chapter, the provisions of this section shall be controlling.

**7. SEVERABILITY.**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**8. APPEALS.**

If a permit for a Tier 1 or Tier 2 battery energy storage system is denied because of a conflict with other laws, including zoning laws of the Town, the applicant may appeal to, or apply for relief or a variance from, the Zoning Board of Appeals, which shall regard battery energy storage as a factor to be considered, weighed and balanced along with other factors, including the statutory factors for variances.

**9. FEES.**

Fee schedules for the Battery Energy Storage System shall be applicable as follows:

<b>Project Size (kWh)</b>	<b>Application Fee</b>
80 kWh or less	\$125
81 kWh to 200 kWh	\$300
201 kWh to 400 kWh	\$450
401 kWh to 600 kWh	\$600
601 kWh to 800 kWh	\$750
801 kWh to 999 kWh	\$900
1,000 kWh +	\$1,000 for the first 1,000 kWh plus an additional \$50 per each additional 100 kWh

10. This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with section twenty-seven (§27) of the Municipal Home Rule Law.

## **RESOLUTION**

At a regular meeting of the Town Board of the Town of Binghamton, Broome County, New York, duly called and held at the Town Hall, 279 Park Avenue, Binghamton, New York, on the 18th day of October, 2022 at 7:00 o'clock P.M. of said day, the following were:

PRESENT: Supervisor Elizabeth Rounds  
Councilperson Dean Nye  
Councilperson Michael Donahue  
Councilperson Michael Bensley  
Councilperson Mark Leighton

ABSENT: None

The Resolution set forth below was duly offered by Councilperson Leighton, who moved its adoption, and was seconded by Councilperson Bensley.

A roll call vote was then taken upon the Motion for the adoption of said Resolution, which resulted as follows:


AYES: Supervisor Elizabeth Rounds  
Councilperson Michael Donahue  
Councilperson Dean Nye  
Councilperson Mark Leighton  
Councilperson Michael Bensley

NAYS: None

ABSENT: None

ABSTAINED: None

The Resolution was then declared adopted.

  
Vickie A. Conklin,  
Town Clerk

**RESOLUTION:**

**WHEREAS**, by motion Councilperson Leighton has recommended that the Town Board approve claim numbers 819; 820-821; 821-824; 825-840, and 841-868 as audited, and

**WHEREAS**, the specific audited claims are as set forth in the attachment.

**NOW, THEREFORE**, be it

**RESOLVED**, that claim numbers 819; 820-821; 821-824; 825-840, and 841-868 as audited are hereby adopted and approved; and be it further

**RESOLVED**, that the Town Supervisor and such other Town officials are authorized to take such additional and further action as is necessary to implement this Resolution.

## **RESOLUTION**

At a regularly scheduled Board meeting of the Town Board of the Town of Binghamton, Broome County, New York, duly called and held at the Town Hall, 279 Park Avenue, Binghamton, New York, on the 18<sup>th</sup> day of October, 2022 at 7:00 o'clock P.M. of said day, the following were:

PRESENT: Supervisor Elizabeth Rounds  
Councilperson Michael Bensley  
Councilperson Dean Nye  
Councilperson Mark Leighton  
Councilperson Michael Donahue

ABSENT: None

The Resolution set forth below was duly offered by Councilperson Bensley, who moved its adoption, and was seconded by Councilperson Nye.

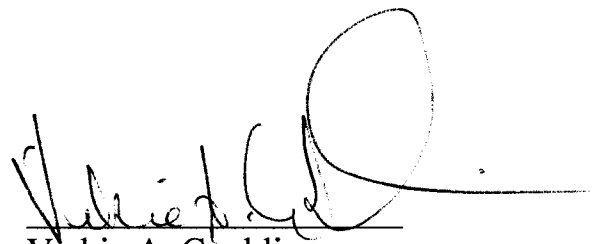
A roll call vote was then taken upon the Motion for the adoption of said Resolution, which resulted as follows:

AYES: All

NAYS: None

ABSENT: None

The Resolution was then declared adopted.



Vickie A. Conklin,  
Town Clerk

**RESOLUTION:**

**WHEREAS**, it has been recommended that the Town Board call for a Public Hearing for Tuesday, November 15, 2022 at 7:01 p.m. to consider input on the proposed 2023 Town of Binghamton Volunteer Fire Department Contract; and

**NOW THEREFORE, IT IS**

**RESOLVED**, that the Town Board hereby approves calling for a Public Hearing to be conducted on Tuesday, November 15, 2022 at 7:01 p.m. to consider input on the proposed 2023 Town of Binghamton Volunteer Fire Department Contract; and it is further

**RESOLVED**, that the Town Clerk, Supervisor and such other Town officials are authorized to take such additional and further action as is necessary to implement this Resolution.

## RESOLUTION

At a regularly scheduled Board meeting of the Town Board of the Town of Binghamton, Broome County, New York, duly called and held at the Town Hall, 279 Park Avenue, Binghamton, New York, on the 18<sup>th</sup> day of October, 2022 at 7:00 o'clock P.M. of said day, the following were:

PRESENT: Supervisor Elizabeth Rounds  
Councilperson Michael Bensley  
Councilperson Dean Nye  
Councilperson Mark Leighton  
Councilperson Michael Donahue

ABSENT: None

The Resolution set forth below was duly offered by Councilperson Bensley, who moved its adoption, and was seconded by Councilperson Donahue.

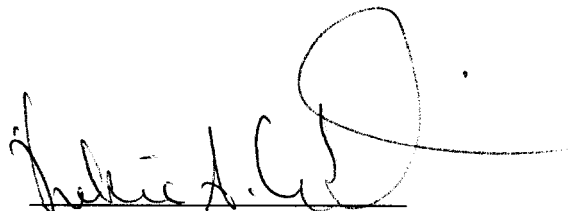
A roll call vote was then taken upon the Motion for the adoption of said Resolution, which resulted as follows:

AYES: All

NAYS: None

ABSENT: None

The Resolution was then declared adopted.



Vickie A. Conklin,  
Town Clerk



**RESOLUTION:**

**WHEREAS**, it has been recommended that the Town Board approve and authorize the purchase of a 185 CFM pull behind Compressor from JC Smith Company in the amount of \$23,482.00; and

**NOW THEREFORE, IT IS**

**RESOLVED**, that the Town Board hereby approves and authorizes the purchase of a 185 CFM pull behind Compressor from JC Smith Company in the amount of \$23,482.00; and it is further

**RESOLVED**, that the Supervisor, Highway Superintendent and such other Town officials are authorized to take such additional and further action as is necessary to implement this Resolution.