TOWN OF GARDINER (draft v. Sept 22, 2026)

LOCAL LAW NO. ___ OF THE YEAR 2026

A LOCAL LAW TO AMEND CHAPTER 220 OF THE CODE OF THE TOWN OF GARDINER ENTITLED "ZONING TO INCLUDE PROVISIONS FOR BATTERY ENERGY STORAGE SYSTEMS"

BE IT ENACTED by the Town Board of the Town of Gardiner as follows:

SECTION 1. LEGISLATIVE INTENT

This local law amends the Town of Gardiner Zoning Law to allow Battery Energy Storage Systems (BESS) in the Town of Gardiner and to provide regulations for such use. BESS will be classified as Tier 1, which will be permitted as an accessory use in all zoning districts; Tier 2, which will be permitted as an accessory use in all zoning districts except Shawangunk Protection Districts 2 and 3 (SP-2 and SP-3), Hamlet Residential District (HR), Hamlet Expansion Overlay District (HEO), Floodplain Overlay District (FPO), and Scenic Protection Overlay District (SPO); Tier 3, which will be permitted as a primary use in all commercial districts (Commercial Light Industrial = CLI and Highway Commercial = HC) as well as in a new BESS System Overlay District (BSO) that is defined to be within 500 horizontal feet of all three-phase or high-voltage transmission lines in the Planned Development District (PDD) and the Rural Agricultural District (RA); and Tier 4, which will not be permitted in any zoning district in the Town of Gardiner. The regulations are designed to protect the health, safety, and welfare of Town residents. The proposed regulations are consistent with the recommendations of the Town's 2022 *Comprehensive Plan*.

SECTION 2. APPLICATION

This local law shall apply within the Town of Gardiner.

SECTION 3. 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 part or parts.

SECTION 4. AMENDMENTS TO ARTICLE II OF THE ZONING LAW ENTITLED "LAND USE AND OVERLAY DISTRICTS"

§4.1. Section 220-7 of the Code, entitled "Establishment of districts," is hereby amended by the addition of the following new zoning districts:

N. Battery Energy Storage System Overlay District (BSO). The purpose of this overlay district is to permit battery energy storage systems of specific storage capacities to be installed near the location of three-phase power lines and high-voltage transmission lines, to facilitate the reliability

of delivery of electricity, especially electricity from renewable energy, within the Town of Gardiner and its local environs.

O. Planned Development District (PDD). The purpose of this district is to enable housing and related development in the Ohioville Acres portion of the Town of Gardiner, as defined and described in Local Law 5 of 2007, *Establishing the Ohioville Acres Planned Development District*."

SECTION 5. AMENDMENTS TO ARTICLE III OF THE ZONING LAW, ENTITLED "LAND USE DISTRICT REGULATIONS"

§5.1 Section 220-10 of the code, entitled "Allowable uses," is hereby amended by making the following modifications to the Use Table in Section 220-10B:

Under "Residential Uses," following the row labelled "Residential Care Facility," insert the following (existing table headers are shown here for reference):

Use Category	**Use Districts**						**Section Reference**
Residential Uses	RA	HM	HR	CLI	HC	SP-1	
BESS Tier 1	P	P	P	P	P	P	220-47.1
BESS Tier 2	P	P	-	P	P	P	220-47.1
BESS Tier 3	-	-	-	-	-	-	220-47.1
BESS Tier 4	-	-	-	-	-	-	220-47.1

Under "Business Uses," following the row labelled "Timber Harvesting," insert the following (existing table headers are shown here for reference):

Use Category	**Use Districts**						**Section Reference**
Business Uses	RA	HM	HR	CLI	HC	SP-1	
BESS Tier 1	P	P	P	P	P	P	220-47.1
BESS Tier 2	P	P	-	P	P	P	220-47.1
BESS Tier 3[10]	-	-	-	S	S	-	220-14.2, 220-47.1
BESS Tier 4	-	-	-	-	-	-	220-47.1

Under "Community Uses," following the row labelled "Nature Preserve," insert the following (existing table headers are shown here for reference):

Use Category	**Use Districts**						**Section Reference**
Community Uses	RA	HM	HR	CLI	HC	SP-1	
BESS Tier 1	P	P	P	P	P	P	220-47.1
BESS Tier 2	P	P	-	P	P	P	220-47.1
BESS Tier 3	-	-	-	-	-	-	220-47.1
BESS Tier 4	-	-	-	-	-	-	220-47.1

Insert note 10 below the Use Table as follows:

"[10]Tier 3 Battery Energy Storage Systems may be permitted as business uses in the RA district only within the Battery Energy Storage Systems Overlay District (BSO)."

§5.2 Section 220-10 of the code, entitled "Allowable uses," is hereby amended by making the following modifications to Section 220-10D, entitled "Accessory uses":

Delete the final sentence of this section in its entirety, and replace it by the following sentence:

Solar and wind energy conversion systems producing electricity and/or heat primarily for on-site use, including those with net metering, as well as Tier 1 and Tier 2 Battery Energy Storage Systems storing electricity primarily for on-site use, shall be considered customary uses to all principal uses.

§5.3 Section 220-10 of the code, entitled "Allowable uses," is hereby amended by adding the following subsection in its entirety to Section 220-10H, entitled "Special site design and operational considerations in the CLI District":

(3) Tier 3 Battery Energy Storage Systems shall be screened from view from roads and adjacent lots, as described in §220-47.1 under Special Use Permits.

§5.4 Section 220-10 of the code, entitled "Allowable uses," is hereby amended by adding the following sentence to Section 220-10J, entitled "Standards for the Highway Commercial (HC) District", as the penultimate sentence of the introductory paragraph in this section (prior to subsection (1)):

For specific design guidelines pertaining to Tier 3 Battery Energy Storage Systems, see §220-47.1.

§5.5 Section 220-10 of the code, entitled "Allowable uses," is hereby amended by adding the following subsection in its entirety to Section 220-10K, entitled "Requirements for specific uses:

(3) Tier 3 Battery Energy Storage Systems. See §220-47.1.

§5.6 Section 220-11 of the code, entitled "Density and dimensional regulations," is hereby amended by making the following changes to the Dimensional Table:

Insert superscript (note) 13 to the rows headed "Minimum side yard setback (feet)" and "Minimum rear yard setback (feet)"

At the end of the Dimensional Table, add note 13 as follows: [13] Setbacks for Tier 1 and Tier 2 Battery Energy Storage Systems follow the entries in this table. For side and rear setbacks for Tier 3 Battery Energy Storage Systems, see §220-47.1.

SECTION 6. AMENDMENTS TO ARTICLE IV OF THE ZONING LAW, ENTITLED "OVERLAY, FLOATING, AND SPECIAL DISTRICT REGULATIONS"

§6.1 Section 220-13 of the code, entitled "Floodplain Overlay District (FPO)," is hereby amended by adding the following sentence in its entirety at the end of Section 220-13C, entitled "Restrictions":

Tier 1 Battery Energy Storage Systems may be added to existing residential structures; no other battery energy storage systems may be installed.

§6.2 Article IV of the code is hereby amended by adding in its entirety a new section, Section 220-14.2, as follows:

§220-14.2 **Battery Energy Storage Systems Overlay District (BSO).**

A. Findings and purpose. Utility-scale battery energy storage systems are among the tools that enable transition from an unreliable fossil-fuel-powered electrical grid to a more reliable electrical grid with increased reliance on renewable energy sources. This district is intended to facilitate utility-scale battery energy storage systems in appropriate locations in Gardiner, near existing electrical transmission lines, rather than allowing such systems and their supporting infrastructure to be placed haphazardly throughout the town. It pertains only to Tier 3 Battery Energy Storage Systems, those with storage capacities of 600 kWh-8 MWh.

B. Zoning restrictions. This overlay district shall be located only within the CLI, HC, RA, and PDD zoning districts. It shall not extend within SP-1, SP-2, SP-3, HR, or HM zoning districts. Within the relevant districts, the minimum requirements shall be those of the underlying zoning districts, except where more stringent requirements are set in §220-47.1.

C. Tier restrictions. This overlay district shall be deemed to allow Tier 3 Battery Energy Storage Systems only within the CLI, HC, RA, and PDD districts.

D. Boundaries. The boundaries of this district shall be within 500 horizontal feet on either side of three-phase electrical transmission lines and high-voltage transmission lines, as shown on the latest electrical transmission system maps maintained by the Ulster County GIS Department and the Central Hudson Gas &

Electric Corporation. This overlay shall not extend into the SP-1, SP-2, SP-3, HR, or HM zoning districts, as noted in §220-14.2B above.

E. Overlaps with other overlay districts. Where the boundaries of this overlay district overlap the Floodplain Overlay District (FPO) or the Scenic Protection Overlay District (SPO), described in §220-13 and §220-14.1 respectively, the FPO or SPO designation shall override the BSO designation. In these regions, the requirements for the FPO and SPO districts shall control the allowed uses.

F. Site plan approval. Requirements for an approved site plan are detailed in §220-47.1.

§6.3 Section 220-16 of the code, entitled "Shawangunk Ridge Protection District (SP)," is hereby amended by adding the following subsections in their entirety to Section 220-16D(3):

(d) Tier 3 or Tier 4 Battery Energy Storage Systems in any SP District.

(e) Tier 2 Battery Energy Storage Systems in SP-2 and SP-3."

§6.4 Section 220-16 of the code, entitled "Shawangunk Ridge Protection District (SP," is hereby amended making the following modification to Section 220-16I, "SP-2 and SP-3 Use Table:"

Under Accessory Uses, item 1, change the description for "Residential accessory structures" to read in its entirety:

> Residential accessory structures (garages, guest cottages, sheds, tennis courts, pools, Tier 1 Battery Energy Storage Systems, and other customary facilities)

SECTION 7. AMENDMENTS TO ARTICLE VII OF THE ZONING LAW, ENTITLED "SUPPLEMENTARY REGULATIONS"

§7.1 Section 220-30 of the code, entitled "Supplementary dimensional regulations," is hereby amended by modifying Section 220-30F, "Setbacks for accessory structures," so that the first sentence of subsection (1) reads as follows (lettered subsections (a) through (g) are unchanged):

(1) Any accessory structure attached to a principal building, and any detached barn, garage, stable, tennis court, swimming pool, Tier 1 Battery Energy Storage System, or Tier 2 Battery Energy Storage System) shall comply with the minimum setback requirements of this chapter applicable to the principal building.

§7.2 Section 220-33 of the code, entitled "Water supply and municipal infrastructure," is hereby amended by modifying Section 220-33A, "Water supply," by deleting the closing parenthetical remark following the words "surrounding area" in its entirety and replacing it with the following closing sentence and parenthetical remark:

This includes water that may be required for fighting fires or cooling thermal runaways of Tier 3 Battery Energy Storage Systems. (See §220-15 and §220-47.1.)

§7.3 Section 220-35 of the code, entitled "Wetland and watercourse protection," is hereby amended by modifying Section 220-35E, "Required setbacks," by inserting a new item (1)(h) in its entirety as follows:

(h) Tier 2 or Tier 3 Battery Energy Storage Systems.

§7.4 Section 220-39 of the code, entitled "Signs," is hereby amended by modifying Section 220-39B, "Exempt signs," by inserting a new item (1)(f) in its entirety as follows:

(f) All signs for battery energy storage systems that are required by the New York State Fire Code (currently §1207.4.8 of the Fire Code, as may be amended from time to time hereafter).

§7.5 Section 220-40 of the code, entitled "Environmental performance standards," is hereby amended by modifying Section 220-40C, "Noise," by inserting a new subsection 220-40C(3) in its entirety as follows, and renumbering the following subsections sequentially:

(3) No Tier 3 Battery Energy Storage System shall emit sound which, as measured at the property lines, has a sound level in excess of fifty-five (55) decibels on the A-weighted scale at any hours of the day.

§7.6 The newly renumbered subsection 220-40C(4), formerly subsection 220-40C(3), shall be deleted in its entirety and replaced by the following text:

(4) Sounds emitted at levels lower than those prohibited by Subsections C(2) and C(3) above shall not be permitted if, because of the type or frequency of the noise emitted, such sounds are offensive, disruptive, or in continual disharmony with the character of an adjoining or nearby residential neighborhood.

§7.7 Section 220-46 of the code, entitled "Wireless telecommunication facilities," is hereby amended by modifying Section 220-46B(17), "Accessory structures," to add the following sentence in its entirety to the end of Section 220-46B(17)(b):

They may include Tier 1 or Tier 2 Battery Energy Storage Systems that are intended to provide continuing ability to send or receive wireless telecommunications transmissions in the event of failures in the electrical power grid, should all other requirements for such battery energy storage systems be satisfied.

***§7.8 Section 220-47 of the code, entitled "Solar energy systems," is hereby amended by modifying Section 220-47A(3), "Definitions," by inserting the following definition in its entirety between* "AREA OF USE" and "BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS":**

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. See §220-47.1 for more detail.

§7.9 Section 220-47 of the code, entitled "Solar energy systems," is hereby amended by deleting in its entirety from Section 220-47A(3) the definition for "SOLAR STORAGE BATTERY."

§7.10 Section 220-47 of the code, entitled "Solar energy systems," is hereby amended by modifying Section 220-47H(4) to insert the words "battery energy storage systems" in place of the words "solar storage batteries."

§7.11 Section 220-47 of the code, entitled "Solar energy systems," is hereby amended by adding the following sentence in its entirety to the end of Section 220-47H(4):

> See 220-47.1 for more details.

§7.12 Section 220-47 of the code, entitled "Solar energy systems," is hereby amended by modifying Section 220-47J(1)(b) to add the following subsection in its entirety:

> [8] Any battery energy storage system to be included as part of a large-scale solar energy system must satisfy all applicable requirements in §220-47.1, including all parts of the Uniform Code that are incorporated by reference.

§7.13 Article VII is hereby amended by inserting in its entirety a new Section 220-47.1 of the code entitled "Battery energy storage systems," which reads as follows:

[Insert entirety of new code here from other file]

SECTION 8. AMENDMENTS TO ARTICLE IX OF THE ZONING LAW, ENTITLED "SPECIAL PERMITS AND SITE PLAN REVIEW"

§8.1 Section 220-60 of the code, entitled "Purpose and applicability," is hereby amended by modifying Section 220-60C, entitled "Minor and major projects," by adding the following subsection in its entirety:

> (3) Any Tier 3 Battery Energy Storage System shall be considered a major project.

SECTION 9. AMENDMENTS TO ARTICLE XII OF THE ZONING LAW, ENTITLED "DEFINITIONS"

§9.1 Section 220-74 of the code, entitled "Word usage; definition of terms," is hereby amended by adding the following definition in its entirety to Section 220-74B, between "BANK, STREAM" and "BED-AND-BREAKFAST":

> **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. An investor-owned battery energy storage system is not considered a Public Utility Facility, as defined in §220-74 of the Town Code. The Town of Gardiner classifies battery energy storage systems as Tier 1, Tier 2, Tier 3, or Tier 4 Battery Energy Storage Systems as follows:

(A) Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 80 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology. These systems are accessory uses to a principal use on a property, and are associated with a non-dedicated-use building.

(B) Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 80 kWh and less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology. These systems are accessory uses to a principal use on a property, and are typically associated with a non-dedicated-use building.

(C) Tier 3 Battery Energy Storage Systems have an aggregate energy capacity greater than 600 kWh and less than or equal to 8 MWh (8,000 kWh) or are comprised of more than one storage battery technology less than or equal to 600 kWh in a room or enclosed area. These systems are principal structures or uses on a property, and are typically associated with a dedicated-use building.

(D) Tier 4 Battery Energy Storage Systems have an aggregate energy capacity greater than 8 MWh (8,000 kWh). These systems are principal structures or uses on a property, and are typically associated with a dedicated-use building. Tier 4 Battery Energy Storage Systems are not permitted in the Town of Gardiner.

§9.2 Section 220-74 of the code, entitled "Word usage; definition of terms," is hereby amended by deleting the definition of "Public Utility Facility" in its entirety from Section 220-74B and replacing it with the following definition:

PUBLIC UTILITY FACILITY

An installation used by a public agency or franchised public utility to supply or transmit electric, gas, water, cable television, telephone, or other utility service, excluding electric power plants and gas wells. Included are such facilities as electric substations, high-voltage transmission lines, pump stations, water supply wells, water towers, and telephone substations. Utility distribution facilities serving customers directly are considered customary accessory uses, not public utility facilities. Investor-owned solar energy systems (§220-47) and investor-owned battery energy storage systems (§220-47.1) also are not considered public utility facilities.

SECTION 10. EFFECTIVE DATE

This local law shall take effect immediately after it is filed with the Secretary of State as provided in Section 27 of the Municipal Home Rule Law.