



Town of Islip



TOWN CLERK

PUBLIC HEARING
655 Main Street
Islip, NY 11751

September 17, 2024
5:30 p.m.

-
- 1. To consider enacting a Local Law 4 of 2024 in connection with Chapter 47H, entitled "Taxation: Exemption for Volunteer Fire Fighter and Ambulance Workers".**
 - 2. To enter into an Airline Use and Lease Agreement with JetBlue Airways Corporation at Long Island MacArthur Airport.**
 - 3. To consider amending the Islip Uniform Traffic Code.**
 - 4. To consider amending the ordinance, Chapter 68-457 entitled "Moratorium for the Development of Battery Energy Storage Systems" of the Islip Town Code.**

GIVEN that any person who needs a sign language interpreter or has concerns regarding accessibility to the Town Board Meeting, please call Constituent Services at 631-224-5380.

Dated at Islip, NY
TOWN OF ISLIP
Published
LDV/tb

TOWN BOARD,

By: LINDA D. VAVRICKA
TOWN CLERK

September 17, 2024
Resolution #

WHEREAS, on December 9th, 2022, the NYS Legislature repealed Real Property Tax Law (“RPTL”) §466-c entitled “Volunteer firefighters and volunteer ambulance workers; certain county;”; and

WHEREAS, on December 9th, 2022, the NYS Legislature amended the RPTL to add a new section, § 466-a., entitled “Volunteer firefighters and volunteer ambulance workers; and

WHEREAS, pursuant to the newly enacted §466-a, any existing local law with respect to a partial real property tax exemption for qualifying volunteer firefighters and volunteer ambulance workers will be deemed ineffective as of December 9, 2025 unless the municipality adopts a new law in accordance with §466-a.;

WHEREAS, the Town Board has determined certain modifications are deemed necessary to Islip Town Code, Chapter 48H, entitled “Taxation: Exemption for Volunteer Fire Fighter and Ambulance Workers” to address this statutory enactment; and

WHEREAS, the Office of the Assessor has recommended that this local law be adopted;
and

WHEREAS, the Town Clerk has placed a Public Notice in the newspaper circulated locally which indicates the nature of the proposed local law; and

WHEREAS, there has been presented to the Town Board on the 17th of September 2024, Chapter 48H of the Islip Town Code, entitled “Taxation: Exemption for Volunteer Fire Fighter and Ambulance Workers” and a public hearing was held;

NOW, THEREFORE, on motion of Councilperson _____,
seconded by Councilperson _____, be it

RESOLVED, the Town Board hereby repeals Islip Town Code, Chapter 48H, entitled
"Taxation: Exemption for Volunteer Fire Fighter and Ambulance Workers" in its entirety and
enacts Islip Town Code, Chapter 48H, entitled "Taxation: Exemption for Volunteer Fire Fighter
and Ambulance Workers" as follows:

SEE ATTACHED

Additions are indicated by UNDERLINING

Deletions are indicated by ~~STRIKEOUTS~~

Upon a vote being taken the result was:

Chapter 48H Taxation: Exemption for Volunteer Fire Fighter and Ambulance Workers

§ 48H-1 Title.

This chapter shall be known and may be cited as the "Taxation: Volunteer Fire Fighters and Volunteer Ambulance Workers Partial Exemption."

§ 48H-2 Legislative intent.

The purpose and intent of this chapter is to exercise the power provided by the State Legislature in § 466-e of the Real Property Tax Law authorizing local legislation to grant a real property tax exemption for certain volunteer fire fighters and certain volunteer ambulance workers who meet the criteria set forth herein.

§ 48H-3 Exemption granted.

Real property owned by an enrolled member of an incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service, or such enrolled member and spouse, or the unmarried spouse of a deceased enrolled member, shall be exempt from taxation to the extent of 10% of the assessed value of such property for Town purposes, exclusive of special assessments.

§ 48H-4 Criteria for exemption.

- A. Such exemption shall not be granted to an enrolled member of an incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service residing in such Town unless:
- (1) The applicant resides in the Town which is served by such incorporated volunteer fire company or fire department or incorporated voluntary ambulance service; [Amended 2-15-2005 by L.L. No. 1-2005]
 - (2) The property is the primary residence of the applicant;
 - (3) The property is used exclusively for residential purposes; provided, however, that, in the event any portion of such property is not used exclusively for the applicant's residence but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this law; and
 - (4) The applicant has been certified by the authority having jurisdiction for the incorporated volunteer fire company or fire department as an enrolled member of such incorporated volunteer fire company or fire department for at least five years, or the applicant has been certified by the authority having jurisdiction for the incorporated voluntary ambulance service as an enrolled member of such incorporated voluntary ambulance service for at least five years.
- B. Any enrolled member of an incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service who accrues more than 20 years of active service and is so certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service, shall be granted the exemption as authorized by this section for the remainder of his or her life as long as his or her primary residence is located within the Town of Islip.

~~§ 48H-4.1 Continuation of exemption for unremarried spouses;
restrictions.~~

- ~~A. Unremarried spouses of deceased enrolled members of an incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service may continue any exemption claimed under such statutes by the deceased enrolled member, provided that either:~~
- ~~(1) Such unremarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service as an unremarried spouse of a deceased enrolled member of such incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service, and:
 - ~~(a) Such deceased volunteer had been an enrolled member for at least 20 years; and~~
 - ~~(b) Such deceased volunteer and unremarried spouse had been receiving the exemption for such property prior to the death of such volunteer.~~~~
 - ~~(2) Such unremarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service as an unremarried spouse of an enrolled member of such incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service who was killed in the line of duty, and:
 - ~~(a) Such deceased volunteer had been an enrolled member for at least five years; and~~
 - ~~(b) Such deceased volunteer had been receiving the exemption prior to his or her death.~~~~
- ~~B. This section shall take effect on the first of January next succeeding the date on which it shall have become a local law and shall apply to the taxable status dates occurring on or after such date.~~

~~§ 48H-5 Application for exemption.~~

- ~~A. Application for such exemption shall be filed with the Assessor of the Town of Islip on or before the taxable status date on a form as prescribed by the State Board of Real Property Services.~~
- ~~B. Incorporated volunteer fire companies, fire departments, and incorporated volunteer ambulance services shall file lists of its enrolled members eligible for the exemption provided by this law with the Assessor of the Town of Islip on or before the taxable status date on a form as prescribed by the State Board of Real Property Services.~~
- ~~C. No applicant who is a volunteer fire fighter or volunteer ambulance worker, who by reason of such status is receiving any benefit under the provisions of any other law on the effective date of this section, shall suffer any diminution of such benefit because of the provisions of this section.~~

~~§ 48H-6 Severability.~~

~~If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, partnership, entity or circumstance directly involved in the controversy in which such order or~~

judgment shall be rendered.

~~§ 48H-7 When effective.~~

~~This chapter shall take effect immediately upon the appropriate certified copies hereof being filed with the Secretary of State of the State of New York.~~

Chapter 48H Taxation: Exemption for Volunteer Firefighter and Ambulance Workers

(Chapter 48H adopted by 10-7-2003 by L.L. No. 3-2003, is rescinded in full and replaced by Chapter 48H adopted by - -2024 by L.L. No. -2024.)

§ 48H-1 Title.

This chapter shall be known and may be cited as the "Taxation: Volunteer Firefighters and Volunteer Ambulance Workers Partial Exemption"

§ 48H-2 Legislative intent.

The purpose and intent of this chapter is to exercise the power provided by the State Legislature in § 466-a of the Real Property Tax Law authorizing local legislation to grant a real property tax exemption for certain volunteer firefighters and certain volunteer ambulance workers who meet the criteria set forth herein.

§ 48H-3 Exemption granted.

Real property owned by an enrolled member of an incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service, or such enrolled member and spouse, shall be exempt from taxation to the extent of ten percent (10%) of the assessed value of such property for Town purposes, exclusive of special assessments.

§ 48H-4 Criteria for exemption.

- A. Such exemption shall not be granted to an enrolled member of an incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service residing in such Town unless:
- (1) The applicant resides in the Town which is served by such incorporated volunteer fire company or fire department or incorporated voluntary ambulance service;
 - (2) The property is the primary residence of the applicant;
 - (3) The property is used exclusively for residential purposes; provided however, that in the event any portion of such property is not used exclusively for the applicant's residence but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this law; and
 - (4) The applicant has been certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or voluntary ambulance service as an enrolled member of such incorporated volunteer fire company, fire department or voluntary ambulance service for at least two years of active service.

- B. Any enrolled member of an incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service who accrues more than twenty (20) years of active service and is so certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service, shall be granted the ten percent (10%) exemption as authorized by this section for the remainder of his or her life as long as his or her primary residence is located within the Town of Islip.

§ 48H-4.1 Continuation of exemption for unremarried spouses; restrictions.

- A. Unremarried spouses of deceased enrolled members of an incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service killed in the line of duty, may continue to receive any exemption claimed under such statutes by the deceased enrolled member, provided however, that:
- (1) Such unremarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service as an unremarried spouse of a deceased enrolled member of such incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service who was killed in the line of duty, and:
 - (a) Such deceased volunteer had been an enrolled member for at least five (5) years; and
 - (b) Such deceased volunteer had been receiving the exemption prior to their death.
- B. Unremarried spouses of deceased enrolled members of an incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service, may continue to receive any exemption claimed under such statutes by the deceased enrolled member, provided however, that:
- (1) Such unremarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service as an unremarried spouse of a deceased enrolled member of such incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service who was killed in the line of duty, and:
 - (a) Such deceased volunteer had been an enrolled member for at least twenty (20) years; and

- (b) Such deceased volunteer and unremarried spouse had been receiving the exemption for such property prior to the death of such volunteer.

§ 48H-5 Application for exemption.

- A. Application for such exemption shall be filed with the Assessor of the Town of Islip on or before the taxable status date on a form as prescribed by the Commissioner of the New York State Board of Real Property Services.
- B. Incorporated volunteer fire companies, fire departments, and incorporated volunteer ambulance services shall file lists of its enrolled members eligible for the exemption provided by this law with the Assessor of the Town of Islip on or before the taxable status date on a form as prescribed by the State Board of Real Property Services.
- C. No applicant who is a volunteer firefighter or volunteer ambulance worker, who by reason of such status is receiving any benefit under the provisions of the rescinded and replaced Chapter 48-H on the effective date of this chapter, shall suffer any diminution of such benefit because of the provisions of this chapter.

§ 48H-6 Severability.

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereto to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 48H-7 Effective date.

This chapter shall take effect when the appropriate certified copies hereof are filed with the Secretary of State of the State of New York, and shall apply to the taxable status dates occurring on or after January 1, 2025.

PUBLIC NOTICE

The Town of Islip held a Public Hearing on Tuesday, September 17, 2024 at Islip Town Hall to execute an Airline Use and Lease Agreement with JetBlue Airways Corporation.

Public Hearing #2

WHEREAS, the Town of Islip (“the Town”) owns and operates Long Island MacArthur Airport (“the Airport”), a FAA Part 139 certificated airport with over one (1) million passengers each year; and

WHEREAS, JetBlue Airways Corporation. (“Airline”) is a corporation primarily engaged in the business of air transportation with respect to the carriage of persons, property, cargo and mail; and

WHEREAS, the Town of Islip Department of Aviation and Transportation recommends entering into a new Airline Use and Lease Agreement with JetBlue Airways Corporation. for a period of one (1) year with a renewal option for an additional four (4) one (1) year options with fees that are consistent and set by the Airport’s Signatory Rates with annual rent increases for rates and charges: and

WHEREAS, the Town of Islip held a public hearing on September 17, 2024 at 5:30 p.m. (EST) to hear comments of all persons wishing to be heard relating to the JetBlue Airways Corporation Airline Use and Lease Agreement; and

NOW, THEREFORE, on a motion of Councilperson _____, seconded by Councilperson _____; be it

RESOLVED, that the Supervisor is hereby authorized to execute an Airline Use and Lease Agreement with JetBlue Airways Corporation for a period of one (1) year with a renewal option for an additional four (4) one (1) year options with fees that are consistent and set by the Airport’s Signatory Rates with annual rent increases for rates and charges.

Upon a vote being taken, the result was:

PUBLIC NOTICE

PLEASE TAKE NOTICE, that the Town of Islip held a **Public Hearing** on **Tuesday, September 17, 2024** at 5:30pm to consider amending the Town of Islip Uniform Traffic Code as follows:

On a motion made by

Seconded by

Be it, Resolved that the Town of Islip Uniform Traffic Code has been amended.

SCHEDULE H

SPEED LIMITS ON CERTAIN STREETS

AMEND TO READ

NAME OF STREET	SPEED LIMIT (mph)	LOCATION
Eastview Drive (CIS)	20 <u>10</u>	Through roundabout located At Central Islip Little League/ The Belmont access roads

SCHEDULE J

PARKING, STOPPING AND STANDING REGULATIONS

AMEND TO READ

LOCATION	REGULATION	HOURS/DAYS
Colton Avenue/ West From Edwards St. south for 250 ft. From <u>115 ft. south of Edwards St. to 100 ft. north of Poplar St. (SVL)</u>	No parking	10:00pm to 6:00am, nightly

SCHEDULE J

PARKING, STOPPING AND STANDING REGULATIONS

DELETE

LOCATION	REGULATION	HOURS/DAYS
Edwards Street/ North From Foster Ave. west for 90+/- (SVL)	No parking	10:00pm to 6:00am., nightly 4/1 to 10/1
Edwards Street/ North From Gillette Ave. to Candee Ave. (SVL)	No parking	10:00pm to 6:00am., nightly
Edwards Street/ South From 235+/- ft. west of Foster Ave. to Foster Ave. (SVL)	No parking	

SCHEDULE J

PARKING, STOPPING AND STANDING REGULATIONS

ADD

LOCATION	REGULATION	HOURS/DAYS
Collins Avenue/ East From Edwards St. to 320 ft. south of Middle Rd. (SVL)	No parking	10:00pm to 6:00am., nightly\ April 1 to November 1
Collins Avenue/ West From 730 ft. south of Middle Rd. to Edwards St. (SVL)	No parking	10:00pm to 6:00am., nightly April 1 to November 1
Colton Avenue/ East From 150 ft. north of Poplar St. to Edwards St. (SVL)	No parking	10:00pm to 6:00am., nightly April 1 to November 1
Colton Avenue/ West From 100 ft. north of Elm Street to Elm St. (SVL)	No parking	
Colton Avenue/ West From Edwards St. south for 115 ft. (SVL)	No parking	
Edwards Avenue/ East From Elm St. to Edwards St. (SVL)	No parking	10:00pm to 6:00am., nightly April 1 to November 1
Edwards Avenue/ West From Edwards St. to Edwards St. (SVL)	No parking	10:00pm to 6:00am., nightly April 1 to November 1
Edwards Street/ North From Foster Ave. to Candee Ave. (SVL)	No parking	10:00pm to 6:00am., nightly April 1 to November 1
Edwards Street/ South From Candee Ave. to Foster Ave.	No parking	10:00pm to 6:00am., nightly April 1 to November 1
Gillette Avenue/ East From Edwards St. to 950 ft. north to Edwards St. (SVL)	No parking	10:00pm to 6:00am., nightly April 1 to November 1
Gillette Avenue/ West From 950 ft. north of Edwards St. to Edwards St. (SVL)	No parking	10:00pm to 6:00am., nightly April 1 to November 1

Upon a vote being taken the result was carried

PUBLIC NOTICE

The Town of Islip held a Public Hearing on September 17, 2024 to adopt Ordinance No. 68-457, declaring a six-month moratorium on the issuance and further processing permits and approvals for Battery Energy Storage Systems (“BESS”) pursuant to Section 68-456 of the Islip Town Code to ensure the health, safety and welfare of the public.

Public Hearing #4

WHEREAS, on the 19th of March 2024, the Town Board duly adopted Ordinance No. 68-457, declaring a six-month moratorium on the issuance and further processing of permits and approvals for Battery Energy Storage Systems (“BESS”) pursuant to Section 68-456 of the Islip Town Code to ensure the health, safety and welfare of the public; and

WHEREAS, since the enactment of the moratorium, the Office of the Town Attorney and the Department of Planning and Development together with a third-party expert have been working diligently to draft Code amendments to Section 68-456 designed to safeguard the residents of the Town of Islip, first responders, and the environment from the health and safety concerns stemming from the operation of BESS units;

WHEREAS, on July 20, 2024, the New York State Inter-Agency Fire Safety Working Group (“Working Group”) issued their Fire Code Recommendations to the New York State Fire Prevention and Building Code Council for future code installments; thereafter on July 25, 2024, the New York State Fire Prevention and Building Code Council (“Code Council”) issued their Final Draft Proposed Changes to the 2020 Fire Code of New York State;

WHEREAS, the Town requires an additional six (6) months to thoroughly vet, and consider incorporating, the recommendations and changes proposed by the Working Group and the Code Council in potential Code amendments;

WHEREAS, this extension will allow the Town time to adequately draft Code amendments that will ensure the proper construction and operation of BESS units while simultaneously safeguarding the residents of the Town of Islip, the surrounding community and infrastructure, and our first responders;

WHEREAS, the current moratorium period is set to expire on October 7, 2024 and the Town Board wishes to amend Ordinance No. 68-457 of the Islip Town Code to extend the moratorium period for an additional six (6) months;

WHEREAS, pursuant to New York State General Municipal Law Section 239-m, the proposed amendment was referred to the Suffolk County Planning Commission on August 2, 2024;

WHEREAS, the Town Clerk has placed a Public Notice in the newspaper circulated locally which indicates the purpose of the proposed ordinance; and

WHEREAS, on September 17, 2024, a public hearing was held;

NOW, THEREFORE, on motion of Councilperson _____,
seconded by Councilperson _____, be it

RESOLVED, the Town Board hereby adopts the amendments to Ordinance No. 68-457 of the Islip Town Code as follows:

SEE ATTACHED

Additions are indicated by UNDERLINING

Deletions are indicated by ~~STRIKEOUTS~~

Upon a vote being taken the result was:

Article XLII Alternative Energy Systems

§ 68-457 Moratorium for the Development of Battery Energy Storage Systems

A. Authority.

This moratorium is adopted pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments, § 10, Subdivisions 1 and 7, §§ 261 through 263 of the Town Law, and § 10 of the Municipal Home Rule Law of the State of New York. In particular, this chapter shall supersede those provisions of the Town Code and New York State Law which require the Town Board, Planning Board, and/or Zoning Board of Appeals to accept, process, and/or approve applications for the development of Battery Energy Storage Systems within specified statutory time periods.

B. Legislative intent.

This ordinance is adopted to impose a six-month moratorium on the issuance of permits and/or approvals for Battery Energy Storage Systems. The Town of Islip recognizes that Battery Energy Storage Systems (“BESS”) are a key component to the viability and promotion of renewable energy sources. However, since the technology of these systems is still in its infancy, there is a significant amount of recent public concern about the potentially volatile nature of lithium-ion batteries, which stems from fires at three different BESS facilities in the State of New York from May through July of 2023. In response to the recent BESS fires, New York State Governor Kathy Hochul found it necessary to form an Inter-Agency Fire Safety Working Group tasked with ensuring the safety of BESS across New York. ~~There have been no notable findings or recommendations published by this group as of the adoption of this ordinance.~~ On July 20, 2024, the New York State Inter-Agency Fire Safety Working Group (“Working Group”) issued their Fire Code Recommendations to the New York State Fire Prevention and Building Code Council for future code installments. Shortly thereafter on July 25, 2024, the New York State Fire Prevention and Building Code Council (“Code Council”) issued their Final Draft Proposed Changes to the 2020 Fire Code of New York State. At this point, it is unclear whether the Code Council will consider or adopt the recommendations set forth by the Working Group.

Since the enactment of the moratorium, the Town has worked diligently to research and analyze the safety issues related to Battery Energy Storage Systems (“BESS”) and identify potential solutions. The Town has consulted an expert in the field to assist in drafting Code amendments intended to address and mitigate the identified safety concerns. Given that the expiration date of the Town of Islip’s BESS moratorium is quickly approaching and the very recent publication of the respective State recommendations and changes, the Town Board finds it necessary to extend the moratorium period for six (6) months.

Therefore, ~~The~~ Town Board, Planning Board, and Zoning Board of Appeals need additional information and assurances about the safety of these types of facilities, including but not limited to best practices for fire suppression and emergency response, ensuring the technology and availability of equipment necessary for the Town’s Hazardous Materials Unit and local fire departments should a fire occur, precautions to take related to gas emissions and deterring any necessary fire suppression chemicals from impacting groundwater, and the adequacy of location and other standards for siting these facilities. Given these concerns and the current lack of relevant data and information on this issue, it is necessary for the Town Board to enact a six (6) month limited moratorium on the issuance of permits and/or approvals for BESS pursuant to Town Code § 68-456 while these issues are further considered and the Code is adequately revised to address any outstanding concerns.

The Town requires an additional six (6) months to thoroughly vet and consider the recommendations and changes proposed by the Working Group, as well as the Code Council to aid in its preparation of amendments to the Town’s current BESS Code Section 68-456. An extension of the moratorium is necessary to complete the legislative intent initially set forth by the Town Board on March 19, 2024. To allow the moratorium to expire at this point is premature.

C. Definitions.

The applicable definitions for this section shall be the same as those set forth in § 68-456.

D. Moratorium.

No new permit, land use application, or request for the development of BESS shall be accepted pursuant to § 68-456, nor shall any pending applications continue to be processed or decided by the Town Board, the Planning Board, or the Zoning Board of Appeals, or any other agency, department, or office of the Town of Islip during the Moratorium Period.

No building permit, BESS permit, or Planning Board special permit for BESS shall be issued by the Town Board, the Planning Board, the Zoning Board of Appeals, or any other agency, department, or office of the Town of Islip during the Moratorium Period.

E. Moratorium Period.

The moratorium period shall be in effect for a period of six (6) months following the effective date of this ordinance. ~~Following the moratorium period, this ordinance shall be without further force and effect unless the moratorium period is extended by a Town Board resolution. Notwithstanding the foregoing, the moratorium period shall not exceed eighteen (18) months.~~ Upon the expiration date of the initial moratorium period on October, 7, 2024, this moratorium is hereby extended for an additional six (6) months. The moratorium extension shall be in effect from the effective date of this amendment and shall run for a period of six (6) months. When this extension period has expired, this moratorium shall be without force and effect unless the moratorium is extended by a Town Board resolution. Notwithstanding the foregoing, the moratorium period shall not exceed eighteen (18) months.

F. Exclusions.

This ordinance shall not apply to Tier 1 BESS, as defined by Section 68-456(c) of the Islip Town Code, that have an aggregate energy capacity less than or equal to 80 kWh.

G. Applications that may exempted.

- 1) In reliance upon the initial findings issued by the New York State Inter-Agency Fire Safety Working Group, which were released on December 21, 2023 and determined that there has been no evidence of significant off-site migration of contaminants associated with the three (3) recent fires at BESS facilities in Jefferson County, Orange County, and Suffolk County, the Town of Islip has set forth below a pathway for certain qualified applications to be exempted from this moratorium.
- 2) Applications may be exempted from the provisions of this ordinance following a public hearing on due notice before the Town Planning Board and service of a written notice upon the local Fire Department for the proposed siting of the BESS. Upon such application, the Planning Board shall consider:
 - a. The emergency response plan including evacuation orders to be followed in the event of a fire or any other emergency at the facility and satisfactory evidence that precautions are in place to suppress a fire and mitigate the extent of damage to the surroundings and environment;
 - b. The size of subject parcel and the wattage of the BESS facility;

- c. The proximity of the applicant's proposed BESS facility to residential areas as well as sensitive and high-risk populations including but not limited to hospitals, nursing homes, assisted living facilities, schools;
 - d. The extent of the proposed development and/or disturbance of the applicant's premises;
 - e. The environmental significance, if any, of the applicant's parcel and the proposed development's impact upon the environment, including existing transportation resources;
 - f. Compatibility of the proposed development with the aesthetic resources of the community or with the existing community or neighborhood character;
 - g. Compatibility of the proposed development with the recommendations of the Master Plan, the Comprehensive Plan Update, and all adopted Comprehensive Plans and plan elements henceforth; and
 - h. Whether the application meets the minimum requirements of Section 68-456.
- 3) In making a determination under this subsection, the Planning Board may obtain and consider written reports from the Town of Islip Hazardous Materials Unit and such other sources as required in the judgment of the Planning Board and consistent with the purpose of this chapter. A grant of an exemption to an applicant's premises shall include a determination of hardship and unique circumstances which do not generally apply throughout the Town and a finding that the grant of an exemption will be in harmony with, and will not be unduly disruptive to, the goals and purposes of the assessment undertaken pursuant to this ordinance.
- 4) An application under this subsection must be accompanied by a \$1,000.00 fee and 8 copies of the application, together with the applicant's written undertaking to pay all out-of-pocket costs incurred by the Town in studies and/or by retainer of resource personnel relating to this hearing, review and determination of such application, in form and substance acceptable to the Planning Board.

H. Compliance with SEQRA.

Pursuant to 6 NYCRR Section 617.5(c)(36), the imposition of a six-month moratorium is a Type II action, and therefore, no further SEQRA review is required.

I. Enforcement.

Any violation of the moratorium shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town of Islip.

J. Severability.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this ordinance, as declared by the valid judgment of any court of competent jurisdiction, 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.

K. Effective Date.

This ordinance shall take effect ten (10) days after the text of the ordinance, or a summary or abstract thereof, is published in either the official newspaper of the Town of Islip or, if there is none, in a newspaper designated by the Town Board having general circulation in the Town pursuant to New York State Town Law §§ 133 and 264.