

§ 85-814. Battery energy storage system.¹ [Added 2-13-2020 by L.L. No. 3-2020, effective 2-28-2020]

Battery energy storage systems shall be classified as follows:

A. Tier 1 systems.

Battery Technology	Tier 1 Aggregate Capacity
	(kWh)
Flow batteries	20 to 599
Lead acid, all types	70 to 599
Lithium, all types	20 to 599
Nickel cadmium (Ni-Cd)	70 to 599
Sodium, all types	20 to 599
Other battery technologies	10 to 599

B. Tier 2 systems shall include any system with an aggregate capacity greater than or equal to 600 kWh.

§ 85-815. Permitted locations.² [Added 2-13-2020 by L.L. No. 3-2020, effective 2-28-2020]

A. A Tier 1 battery energy storage system may be permitted as a principal use in any J Business 2 and J Business 5 District when authorized by special permit from the Planning Board, subject to the requirements of this chapter.

B. A Tier 1 or Tier 2 battery energy storage system may be permitted as a principal use in any L Industrial 1, L Industrial 2, and L Industrial 4 District.

C. Special permit criteria. The following special permit criteria are applicable to battery energy storage systems located in J Business 2 and J Business 5:

- (1) The minimum lot area shall be 40,000 square feet.
- (2) The minimum required width of road frontage shall be 100 feet.
- (3) The minimum required front yard setback shall be 50 feet.
- (4) The minimum required side yard setback shall be 25 feet, except as otherwise provided herein.
- (5) The minimum required rear yard setback shall be 25 feet, except as otherwise provided herein.

1. Editor's Note: Former § 85-814, Accessory uses, was repealed 10-27-2016 by L.L. No. 23-2016, effective 11-7-2016. See now § 85-813C.

2. Editor's Note: Former § 85-815, Special permit requirements, was repealed 10-27-2016 by L.L. No. 23-2016, effective 11-7-2016. See now § 85-813B.

- (6) The maximum permitted FAR shall be 35%.
 - (7) The maximum permitted height for all structures shall be 35 feet.
 - (8) The minimum side yard and/or rear yard setback shall be 50 feet when adjacent to property zoned or used for residential.
 - (9) The minimum perimeter buffer area shall be 25 feet, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings in accordance with Town standards.
- D. Dimensional criteria. The following dimensional criteria are applicable to battery energy storage systems located in L Industrial 1, L Industrial 2, and L Industrial 4:
- (1) The minimum lot area shall be 40,000 square feet.
 - (2) The minimum required width of road frontage shall be 100 feet.
 - (3) The minimum required front yard setback shall be 50 feet.
 - (4) The minimum required side yard setback shall be 10 feet; the minimum side yard setback shall be 25 feet when adjacent to property zoned or used for residential.
 - (5) The minimum required rear yard setback shall be 50 feet.
 - (6) The maximum permitted FAR shall be 35%.
 - (7) The maximum permitted height for all structures shall be 50 feet.

§ 85-816. Design standards; application requirements.³ [Added 2-13-2020 by L.L. No. 3-2020, effective 2-28-2020]

- A. Utility lines and electric circuitry. All on-site utility lines shall be placed underground to the extent feasible, with the exception of the main service connection at the utility company right-of-way and any interconnection equipment, including poles.
- B. Signage.
- (1) Signage shall be in compliance with ANSI (American National Standards Institute) Z535, and shall state the type of technology associated with the battery storage system, any special hazards associated, the type of suppression system installed, and the twenty-four-hour emergency contact, including phone number.
 - (2) Disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface, and a clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and

3. Editor's Note: Former § 85-816, Abandonment, was repealed 10-27-2016 by L.L. No. 23-2016, effective 11-7-2016. See now § 85-813E.

substations, subject to the requirements of NEC (National Electric Code).

- C. Lighting. Lighting shall be limited to that minimally required for safety, and operation, and shall comply with the exterior lighting standards set forth in Town Code.
- D. Vegetation and clearing. All combustible vegetation and growth shall be cleared from the area within 10 feet of the perimeter the battery energy storage system and equipment. Removal of trees shall be minimized to the extent possible.
- E. Noise. All operations shall comply with noise control standards, as set forth in Town Code.⁴ The applicant may be required to provide operating sound pressure level measurements to demonstrate compliance.
- F. One-line electric diagram. A one-line electric diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all NEC-compliant disconnects and overcurrent devices, shall be required.
- G. Safety.
 - (1) System certification. Battery energy storage systems and equipment shall be listed by a nationally recognized testing laboratory to UL 9540 or CAN 9540 standards.
 - (2) Battery energy storage systems and equipment shall have required working space clearances, and electric circuitry shall be within the weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA (National Fire Protection Association) 70.
- H. Decommissioning plan.
 - (1) All applications for a battery energy storage system shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the battery energy storage system or structure. Prior to issuance of a building permit, the owner or operator of the facility or structure shall post a performance bond or other suitable guarantee in a face amount of not less than 150% of the estimated cost, as determined by the Town Engineer, to ensure removal of the system or structure in accordance with the decommissioning plan described below. The form of the guarantee must be reviewed and approved by the Town Engineer and Town Attorney, and the guarantee must remain in effect until the system is removed. Review of the guarantee by the Town Engineer and Town Attorney shall be paid from an escrow established by the applicant. Prior to removal of a battery energy storage system or structure, a demolition permit for removal activities shall be obtained from the Town of Brookhaven.
 - (2) The decommissioning plan shall ensure that the site will be restored to a

4. Editor's Note: See Ch. 50, Noise Control.

useful, nonhazardous condition without delay, with details including, but not limited to, the following:

- (a) The manner in which the battery energy storage system will be decommissioned;
- (b) Removal of aboveground and below ground equipment, structures and foundations;
- (c) Restoration of the surface grade and soil after removal of equipment;
- (d) Revegetation of restored soil areas with native seed mixes, excluding any invasive species;
- (e) The time frame for the completion of site restoration work.

§ 85-817. Commissioning and decommissioning. [Added 2-13-2020 by L.L. No. 3-2020,⁵ effective 2-28-2020]

- A. Commissioning. Commissioning shall be conducted by a New York State licensed professional engineer or registered architect, after the installation is complete but prior to a certificate of occupancy being issued.
- B. Decommissioning.
 - (1) In the event that construction of the battery energy storage system or structure has been started but is not completed and functioning within 18 months of the issuance of final site plan approval, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.
 - (2) Upon cessation of operation of a fully constructed battery energy storage system or structure for a period of one year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator can either restore operations, or implement the decommissioning plan.
 - (3) If the owner and/or operator fails to fully implement the decommissioning plan within the 180-day time period and restore the site as required by the decommissioning plan, the Town may default the performance bond or guarantee, and utilize such funding to restore the site pursuant the decommissioning plan. In the alternative, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by

5. Editor's Note: This local law also redesignated former §§ 85-817 and 85-818 as §§ 85-818 and 85-819, respectively.

the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes.