

**VILLAGE/TOWN OF MOUNT KISCO
PROPOSED LOCAL LAW NO. 01-2025**

A LOCAL LAW TO AMEND CHAPTER 110 OF THE CODE OF THE VILLAGE/TOWN OF
MOUNT KISCO ENTITLED “ZONING” TO AMEND THE DEFINITION OF “PUBLIC
UTILITY FACILITY,” TO DEFINE AND REGULATE BATTERY ENERGY STORAGE
SYSTEMS, AND TO DELETE INCONSISTENT PROVISIONS RELATING TO BATTERY
STORAGE ASSOCIATED WITH SOLAR ENERGY SYSTEMS

Be it enacted by the Village Board of the Village/Town of Mount Kisco of the County of Westchester as follows:

Section 1. Legislative Intent and Findings.

This local law amends the Village/Town of Mount Kisco Zoning Code (the “Village Code”) to amend the definition of “public utility” to clarify that battery energy storage systems (“BESS”) are not public utilities under the Village Code and to make clear that BESS are prohibited throughout the Village/Town of Mount Kisco (the “Village”). This local law is designed to protect the health, safety, and welfare of Village residents and is consistent with the recommendations of the Village’s 2019 Comprehensive Plan “to conserve natural areas, promote commercial vitality downtown, preserve neighborhoods, and address housing needs.” Plan, p.3. The Village Board finds that, given the current state of technology of lithium-ion batteries at this time, the siting of large-scale BESS utilizing this technology within its boundaries would jeopardize and put at substantial risk the health, safety, and welfare of Village residents and would not promote or further the goals set forth above.

Section 2. Statement of Authority.

This local law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the relevant provisions of the Town and Village Law of the State of New York, the laws of the Village/Town of Mount Kisco and the general police power vested with the Village to promote the health, safety and welfare of all residents and property owners in the Village.

Section 3. Code Amendments.

Chapter 110 “Zoning” of the Code of the Village/Town of Mount Kisco is hereby amended as follows:

- A. Existing Code sections §110-33.2(B)(10) and §110-33.2(H)(3) are hereby deleted in their entirety.
- B. The definition of “Public Utility Facility” in §110-59 is hereby deleted in its entirety and replaced with the following:

PUBLIC UTILITY FACILITY

A facility, other than a personal wireless service facility or a battery energy storage system, for the

provision of public utility services, including facilities constructed, altered or maintained by utility corporations, either public or privately owned, or government agencies, necessary for the provision of electricity, gas, steam, heat, communication, water, sewage collection or other such service to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes, conduits, cables, alarms and call boxes and other similar equipment, but shall not include office or administration buildings. For purposes of this chapter, personal wireless service facilities, defined separately in this chapter, shall not be governed by the zoning regulations which apply to the broader definition of public utility facilities, but shall be governed by the regulations of the Personal Wireless Services Facilities Overlay District which specifically regulates this category of public utilities. Battery energy storage systems (BESS), defined separately in this chapter, shall not be deemed to be public utilities under this Code.

- C. The following definitions related to battery energy storage systems are hereby added, in alphabetical order, to §110-59:

BATTERY — 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 section, batteries utilized in consumer products are excluded.

BATTERY ENERGY STORAGE SYSTEM — A system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems and associated mechanical and electrical equipment, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone twelve-volt car battery or an electric motor vehicle. Battery energy storage systems are not an allowed use in any District in the Village.

Section 4. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section 5. Repeal.

All ordinances, local laws and any parts thereof inconsistent with this local law are hereby repealed to the extent of such inconsistency.

Section 6. Effective Date.

This local law shall become effective upon filing in the office of the Secretary of State of the State of New York.