

**CERTIFICATION OF ACTION TAKEN AT COUNCIL MEETING**

**TO: Director of Development and Marketing**

**RE: Requests the City Council approve the ordinance creating City code § 230-40 Battery Energy Storage Systems prohibited within Chapter 230-Zoning. Item #7A.**

**I, Grace Marrano, City Clerk of the City of Lackawanna, New York, County of Erie, do hereby certify the following action was taken at the City Council meeting on October 20, 2025 and is incorporated in the original minutes of said meeting. I do hereby certify that this is a true and correct transcript of such.**

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**Moved by Marrano second by Anderson to adopt ordinance as written.**

**Yeas: Muflahi, Anderson, Moretti, Surdyke, Marrano**

**Carried: 5-0**

**Dated: Lackawanna, New York**

**October 20, 2025**

**Office of the City Clerk**



**Grace Marrano**

**City Clerk**

**Cc: Mayor  
City Attorney  
Public Safety  
File**

## ORDINANCE

### **AN ORDINANCE ADDING § 230-40 - BATTERY ENERGY STORAGE SYSTEMS PROHIBITED TO THE CITY OF LACKAWANNA MUNICIPAL CODE**

BE IT ENACTED by the City Council of the City of Lackawanna, New York that the following § 230-40 - *Battery Energy Storage Systems Prohibited* be added to *Chapter 230 - Zoning* of the Municipal Code:

#### **§ 230-40 - BATTERY ENERGY STORAGE SYSTEMS PROHIBITED**

**1. Purpose.** Adoption of this Chapter is intended to continue the orderly economic development of, and protect the public health, safety, welfare and quality of life in, the City of Lackawanna ("City") by prohibiting Tier I, II or III Battery Energy Storage Systems (BESS) within all City Zoning Districts \* in support of the following objectives:

A. Pursue economic development projects which deliver the 'highest and best uses' of available developable land (private or municipal) relative to new job, revenue and infrastructure creation as outlined in the City's Comprehensive Plan;

B. Ensure these new development projects are compatible with, and contribute to, maintaining a safe quality of life in all City Zoning Districts – particularly those populated with schools, recreation spaces, houses of worship, senior / community centers and other similar public gathering facilities;

C. Mitigate the impact economic development projects have on the City's environmental and other protected resources.

**2. Definitions.** A Battery Energy Storage System (BESS) shall be defined as a large-scale system that primarily utilizes lithium-ion batteries to store electrical energy, which is then released back into the grid when needed to power homes and businesses or as a backup energy source.

A BESS is typically classified by tiers according to size (aggregate energy capacity) and complexity of the battery technology employed:

- Tier I (< / = 600 kWh) most often associated with home use,
- Tier II (> 600 kWh) most often associated with small to medium sized business use,
- Tier III for large complex industrial applications not covered by Tier I or II.

Lithium-ion batteries are a growing safety concern for both municipal and volunteer fire departments as they are potentially highly flammable and difficult to control and contain.

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3. **Rule.\*** The construction and operation of Tier I, II or III Battery Energy Storage Systems (BESS) is and shall be **prohibited** in all City Zoning Districts as follows: Single-Family Residential (SFR); Mixed Residential (MR); Neighborhood Commercial (NC); Central Business District (CBD); Regional Commercial (RC); Mixed Commercial and Industrial (MCI); Industrial (I); Bethlehem Redevelopment Area (BRA); Open Space (OS); McKinley Parkway Overlay (MPO); Seaway Trail Overlay (STO); Smokes Creek Overlay (SCO); and Planned Unit Development (PUD).

*\* The only exception to this is rule would involve any future decisions by the New York State Public Service Commission (PSC) to locate a suitable BESS facility on appropriately zoned land within the City which is already owned and operated by public utility companies and related to their core services and infrastructure.*

4. **Application.** As a prohibited use, variance requests permitting Tier I, II or III Battery Energy Storage System (BESS) within any City Zoning District *(with the exception of those which may be deemed necessary for public utilities as noted in 3. Rule)* will not be entertained by the Zoning Board of Appeals and / or Planning and Development Board (through the Department of Development) while § 230-40 remains in effect.

5. **Severability.** If any provision of § 230-40 is for any reason held unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining sub-chapters and provisions of Chapter 230 – Zoning will be unaffected and therefore, remain in effect.

6. **Effective Date.** § 230-40 shall be effective immediately upon filing with the City Clerk for the City of Lackawanna.

Dated: October 21, 2025  
Lackawanna, New York

APPROVED

  
ANNETTE IAFALLO

Mayor

APPROVED  
AS TO FORM AND SUFFICIENCY

  
City Attorney