

**ANNUAL TOWN MEETING WARRANT  
TOWN OF DRACUT  
NOVEMBER 2023**

**ARTICLE #5  
ZONING BY-LAW  
BATTERY ENERGY STORAGE SYSTEMS (BESS)**

***Summary:***

***The current Town of Dracut Zoning Bylaw omits any regulations for battery energy storage systems which means that this use isn't permitted in the Town of Dracut.***

***In reviewing proposed Zoning Bylaw changes from the Town of Wendell, the Attorney General determined in March of 2023 that municipalities may not prohibit stand-alone Battery Energy Storage Facilities.***

***What will a "YES" vote mean?***

***A "YES" vote will add battery energy storage system, definitions and entries to the Table of Uses, ensuring local control of this developing use.***

***What will a "NO" vote mean?***

***A "NO" vote would keep the current zoning prohibiting these systems by omitting them from our regulations, in violation of State Regulations.***

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To see if the Town will Vote to amend the Zoning Bylaw as follows:

1. Amend Section 3.3 (Table of Permitted Uses) of the Zoning Bylaw after the entry by inserting the following row in section titled "Other Uses".

**3.3 TABLE OF PRINCIPAL USES**

Other Uses	Residential			Business					Industrial	
	R-1	R-2	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2
Non-Solar Battery Energy Storage Systems	PB	0	0	0	0	0	PB	PB	PB	PB

2. By Inserting a new Section 8.8 to read as follows:

8.8 BATTERY ENERGY STORAGE SYSTEMS (BESS)

**8.8.1 Purpose.** The purpose of this Section is to advance and protect the public health, safety, welfare, and quality of life by creating regulations for the installation and use of BESS, with the following objectives:

- A. To provide a regulatory scheme for the location, construction and operation of BESS consistent with best practices and safety protocols;
- B. To ensure compatible land uses in the vicinity of the areas affected by BESS and to mitigate any potential impacts on abutting and nearby properties; and
- C. To mitigate the impacts of BESS on environmental resources such as agricultural lands, forests, wildlife, wetlands and other natural resources.

In the event of any conflict between the provisions of this section and the provisions of state law or regulations, the state law and regulations shall prevail.

**8.8.2 Definitions**

As used in this section of the Dracut Zoning Bylaw, the following terms shall have the meanings indicated.

**ANSI:** American National Standards Institute

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**Battery or batteries:** 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 Bylaw, batteries utilized in consumer products are excluded from these requirements.

**Battery Energy Storage Management System:** An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected. Any BESS installed in conjunction with a Solar Photovoltaic Facility shall be considered a permitted Accessory Use to such installation.

**Cell:** The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

**Commissioning:** A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

**Dedicated-Use Building:** A building that is built for the primary intention of housing battery energy storage system equipment, and complies with the following:

1. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
2. No other occupancy types are permitted in the building.
3. Occupants in the rooms and areas containing BESS are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
4. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
  - a. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
  - b. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing BESS or other energy system equipment.

**Nationally Recognized Testing Laboratory (NRTL):** A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

**NFPA:** National Fire Protection Association.

**Non-Dedicated-Use Building:** All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

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**Non-Participating Property:** Any property that is not a participating property.

**Non-Participating Residence:** Any residence located on non-participating property.

**Participating Property:** A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

**UL:** Underwriters Laboratory

### **8.8.3 Applicability**

- A. The requirements of this Bylaw shall apply to BESS permitted, installed, decommissioned, or modified after the effective date of this Bylaw, excluding general maintenance and repair. BESS subject to this Bylaw are only those that exceed the following capacities:
- Lead-acid with a capacity of greater than 70 kWh
  - Nickel with a capacity of greater than 70 kWh
  - Lithium-ion with a capacity of greater than 30 kWh
  - Sodium nickel chloride with a capacity of greater than 20 kWh
  - Flow with a capacity of greater than 20 kWh
  - Other battery technologies with a capacity of greater than 10 kWh

BESS that do not meet the threshold capacities above are not subject to this Bylaw and are allowed by right in all zoning districts.

### **8.8.4 General Requirements**

- A. All permits required by state and local codes and Bylaws, including but not limited to a building permit, an electrical permit, and a fire department permit shall be required for installation of all BESS.
- B. All BESS, all Dedicated Use Buildings, and all other buildings or structures that (a) contain or are otherwise associated with a battery energy storage and (b) subject to the requirements of the State Building Code, shall be designed, erected, and installed in accordance with all applicable provisions of the State Building Code 780 CMR, State Fire Code 527 CMR 1.00, and State Electrical Code 527 CMR 12.00. All BESS shall comply with NFPA 855, Standard for the Installation of Stationary Energy Storage Systems.
- C. BESS capacities, including array capacity and separation, are limited to the thresholds contained in NFPA 855.
- a. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way

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and any new interconnection equipment, including without limitation any poles.

**8.8.5 Permitting Requirements for Non-Solar BESS**

Non-Solar BESS are subject to this Bylaw and require the issuance of a special permit in those zoning districts identified in TABLE 1, Schedule of Uses, and are subject to Major Site Plan Review pursuant to Section 3.5. BESS shall comply with the applicable requirements set forth in this Bylaw, as well as this Zoning Bylaw, and the Dracut General Bylaws. The following requirements apply to all BESS:

- A. Signage. Signage shall comply with the requirements of Section 6.2 of this Zoning Bylaw and the following requirements: in the event of a conflict between the provisions of Section 6.2 and this section, the requirements of this Section shall prevail.
  - 1. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the BESS, any special hazards associated, the type of suppression system installed in the area of BESS, and 24-hour emergency contact information, including reach-back phone number.
  - 2. As required by the state electrical code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
  - 3. Signage compliant with ANSI Z535 shall be provided on doors to rooms, entrances to BESS facilities, and on BESS outdoor containers.
- B. Lighting. The lighting of the BESS shall comply with Section 2.4.11 of this Zoning Bylaw.
- C. Vegetation and tree cutting. Areas within twenty feet on each side of a BESS installation shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.
- D. Setbacks.
  - 1. All BESS shall be set back a minimum of 50 feet from all side, rear, and front lot lines; except if abutting or across the street from a residential zoning district in which case a BESS shall be set back a minimum of 100 feet from side, rear, and front lot lines.
  - 2. In addition, a minimum of 20 feet must be maintained between BESS components and all buildings, stored combustible materials, hazardous materials, high-piled storage, personnel means of egress, and other exposure hazards not associated with electrical grid infrastructure.

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- E. Dimensional. BESS shall comply with the dimensional limitations for principal structures of the underlying zoning district as provided in Section 4 of this Zoning Bylaw, unless otherwise provided in this Bylaw.
- F. Fencing Requirements. BESS, including all mechanical equipment, shall be enclosed by a minimum eight-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building. Security barriers, fences, landscaping, and other enclosures must not inhibit required airflow or exhaust from the BESS and components. Electrical equipment greater than 1,000V requires a separate and additional means to restrict access. NFPA 855 requires specialty safety systems to be provided based on the BESS chemistry and installed location.
- G. Screening and Visibility. BESS shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. Such features may not inhibit required air flow to or exhaust from the BESS and components and must comply with the setbacks established above.
- H. Mitigation for Loss of Carbon Sequestration and Forest Habitat. If land that is Forestland or has been Forestland within one year immediately preceding the filing of an application to install a BESS, the applicant shall demonstrate that they have made best efforts to preserve forest land and minimize loss of carbon sequestration.
- I. Fire Protection: Any building built or modified as a BESS shall have a full fire protection system, designed and engineered to meet the hazard regardless of building size. Any facility located in an area not served by a municipal water supply shall install a cistern approved by the Fire Chief for fire protection systems and firefighting operations.
- J. Batteries. Failed battery cells and modules shall not be stored on the site and shall be removed no later than 30 days after deemed failed by the BESS operator or cell/module manufacturer. The operator shall notify the Dracut Fire Chief in advance if the type of battery or batteries used onsite is to be changed.
- K. Decommissioning Plan. The applicant shall submit with its application a decommissioning plan to be implemented upon abandonment and/or in conjunction with removal of the facility. The owner or operator of the BESS shall notify the Building Inspector in writing at least twenty days prior to when a BESS will be decommissioned. Decommissioning of an abandoned or discontinued BESS shall be completed within six months after the facility ceases operation.

The decommissioning plan shall include:

- 1. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all BESS components, structures, equipment, security barriers, and transmission lines

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- from the site;
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
  3. The anticipated life of the battery energy storage system;
  4. The estimated decommissioning costs and how said estimate was determined;
  5. The method of ensuring that funds will be available for decommissioning and restoration;
  6. The method by which the decommissioning cost will be kept current;
  7. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
  8. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.
- L. Decommissioning Fund. The owner and/or operator of the BESS, shall continuously maintain a fund or other surety acceptable to the Town, in a form approved by the Planning Board and Town Counsel, for the removal of the BESS, in an amount to be determined by the Planning Board, for the period of the life of the facility. All costs of the financial security shall be borne by the applicant. The Town shall have the right to access the surety should the owner and/or operator fail to properly decommission the energy storage system.
- M. Proof of Liability Insurance. The applicant or property owner shall provide evidence of commercial liability insurance in an amount and type generally acceptable in the industry and approved by the Planning Board prior to the issuance of a building permit and shall continue such insurance in effect until such facility has been decommissioned, removed, and the site restored in accordance with this Bylaw.

**8.8.6 Site plan application.**

For a BESS the site plan application shall include the following information, in addition to that required in Section 2.4 Site Plan Review, of this Zoning Bylaw and the Planning Board Rules and Regulations:

- A. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all State Electrical Code compliant disconnects and over current devices.
- B. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of

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building permit.

- C. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the BESS. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- D. Large-scale fire test data, evaluation information, and calculations, and modeling data. For any of the following, UL 9540A fire test data must be made available to the Planning Board for review:
  - BESS systems with a capacity of greater than 50kWh
  - BESS systems with spacing between arrays of less than 3 feet
- E. Commissioning Plan. The system installer or commissioning agent shall prepare a commissioning plan prior to the start of commissioning. Such plan shall be compliant with NFPA 855 and document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in applicable state codes. Where commissioning is required by the Building Code, battery energy storage system commissioning shall be conducted by a Massachusetts Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required by applicable state codes shall be provided to the Building Inspector prior to final inspection and approval and maintained at an approved on-site location.
- F. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with state codes, including documentation that BESS components comply with the safety standards set forth in subsection 8.12.I.
- G. Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth state codes and NFPA 855. Maintenance provisions will be driven by manufacturer requirements for the specific listed system.
- H. Interconnection will be completed per 527 CMR 12.00. System interconnections into utility grids shall be in accordance with NFPA 855. An accessible disconnect is required per 527 CMR 12.00.
- I. Emergency Operations Plan. An Emergency Operations Plan compliant with NFPA 855 is required. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. For so long as the BESS is operational, the operator shall provide the Fire Department, Police Department, Building Inspector, and Town Manager's office with contact information for personnel that can be reached 24 hours per day every day, and this contact information shall be updated by the operator whenever there is a change in the information. The operator shall also be required



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to have an official representative be present onsite not later than two hours after notification by the Fire Chief, Police Chief, or their designee. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:

1. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
2. Procedures for inspection and testing of associated alarms, interlocks, and controls, including time intervals for inspection and testing.
3. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
4. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
5. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
6. Procedures for safe disposal of battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
7. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
8. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

#### **8.8.7 Ownership Changes.**

If the owner of the BESS changes or the owner of the property changes, the special permit may remain in effect, provided that the successor owner or operator shall assume, in writing, all the obligations of the special permit, site plan approval, and decommissioning plan and fund. A new owner or operator of the BESS shall notify the Building Commissioner and the Planning Board of such change in ownership or operator within 14 days of the ownership change, in writing.

#### **8.8.8 Safety**

- A. System Certification. BESS and equipment shall be listed by a Nationally Recognized Testing

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Laboratory to UL 9540 (Standard for BESS and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:

1. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
  2. UL 1642 (Standard for Lithium Batteries),
  3. UL 1741 or UL 62109 (Inverters and Power Converters),
  4. Certified under the applicable electrical, building, and fire prevention codes as required.
  5. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.
- B. Site Access. BESS shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department.
- C. BESS, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

**8.9.9 Abandonment**

The BESS shall be considered abandoned when it ceases to operate consistently for more than one year without written consent of the Planning Board. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, after compliance with any applicable state and federal constitutional requirements, enter the property and utilize the available bond and/or security for the removal of a BESS and restoration of the site in accordance with the decommissioning plan.

or take any action relative thereto.

Submitted by: Alison Manugian, Community Development Director  
Recommendations: Approval Recommended (Planning Board)