

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Cicero

Local Law No. 4 of the year 2024

A local law (Insert Title) A local law adopting a resolution approving the moratorium on the construction of certain types of Battery Energy Storage Systems. See attached local law.

Town Board approved on June 26, 2024.

Be it enacted by the Town of Cicero Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Cicero, in the County of Onondaga as follows:

LOCAL LAW #4 of 2024:

A local law in the Town of Cicero : the adoption of a resolution to approve a moratorium on the construction of certain types of Battery Energy Storage Systems.
The effective date shall be upon filing with the NYS Secretary of State and shall be known as Local Law #4 of 2024.
The resolution was approved by the Cicero Town Board on June 26, 2024.

(See attachment #1)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2024 of the (County)(City)(Town)(Village) of Cicero was duly passed by the Town Board on June 26 2024, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer)*
on _____ 2024, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.~~

~~6. (County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Darcy M. Casella
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: June 27, 2024

(Seal)

LOCAL LAW NUMBER 4 OF THE YEAR 2024

A LOCAL LAW OF THE TOWN OF CICERO, also known as “The Town of Cicero Temporary Battery Energy Storage System Moratorium,” in relation to the creation of a temporary moratorium on commercial battery energy storage system installations.

BE IT ENACTED by the Town Board of the Town of Cicero, Onondaga County, New York, as follows: That Town of Cicero Local Law Number 4 of the year 2024 entitled “Temporary Moratorium for Battery Energy Storage Systems” is hereby adopted to enact a one (1) year moratorium prohibiting the consideration, approval, and/or development of any new commercial battery energy storage system installations within the Town of Cicero.

This temporary moratorium may be further extended or terminated by the Town Board. This law does not apply to existing permitted uses but does apply to pending applications. Moreover, it does not apply to residential battery energy storage systems that serve one (1) one- or two-family residence.

Said Local Law reads as follows:

SECTION 1. Statutory Authority

This Local Law is adopted pursuant authority granted by the following:

- A. New York State Constitution Article IX §2(c)(6) and §2(c)(10);
- B. Statute of Local Governments §10(1), §10(6), and §10(7);
- C. Municipal Home Rule Law §10(1)(i), §10(1)(ii), §10(1)(ii)(a)(6), §10(1)(ii)(a)(11), §10(1)(ii)(a)(12), and §10(1)(ii)(a)(14);
- D. Town Law Article 16;
- E. Town Law §130(1), §130(3), §130(5), §130(7), §130(7-a), §130(11), §130(15), §130(15-a), §130(16), §130(19), and §130(25);
- F. Town Law §64(17-a) and §64(23);
- G. The Town of Cicero’s inherent police powers; and
- H. The laws of the State of New York.

SECTION 2. Purpose and Legislative Intent

The purpose of this Local Law is to provide a temporary one (1) year moratorium on the application, consideration, and/or approval of Tier 2 and/or Tier 3 battery energy storage system installations to give the Board an adequate opportunity to study the matter of Town policy and codes, the potential environmental impact of battery energy storage systems, and to develop and pass legislation regulating battery energy storage systems in accordance with the Town of Cicero Comprehensive Plan.

SECTION 3. Definitions

BATTERY ENERGY STORAGE SYSTEM

A collection of cells, assembled together, housed in a self-contained unit, or in a building that is constructed to meet specific standards related to industry and local fire codes, that is capable of storing energy in order to supply electrical energy to a building, a group of buildings, and/or the electrical grid at a future time. A battery energy storage system is classified as a Tier 1, Tier 2, or Tier 3 battery energy storage system as follows:

- A. Tier 1 battery energy storage systems include either:
 - (1) Battery energy storage systems for one- to two-family residential dwellings within or outside the structure with an aggregate energy capacity that shall not exceed:
 - (a) Forty kWh within utility closets and storage or utility spaces;
 - (b) Eighty kWh in attached or detached garages and detached accessory structures;
 - (c) Eighty kWh on exterior walls; and
 - (d) Eighty kWh outdoors on the ground; or
 - (2) Other battery energy storage systems with an aggregate energy capacity less than or equal to the threshold capacity listed in Table 1.
- B. Tier 2 battery energy storage systems include battery energy storage systems that are not included in Tier 1, have an aggregate energy capacity greater than the threshold capacity listed in Table 1, and have an aggregate energy capacity less than 600 kWh.

Table 1: Battery Energy Storage System Tier 2 Threshold Quantities	
Battery Technology	Capacity
Flow batteries	20 kWh
Lead acid, all types	70 kWh
Lithium, all types	20 kWh
Nickel cadmium (Ni-Cd)	70 kWh
Nickel metal hydride (Ni-MH)	70 kWh
Other battery technologies	10 kWh

C. Tier 3 battery energy storage systems include the following:

- (1) Battery energy storage systems with an aggregate energy capacity greater than or equal to 600 kWh; or
- (2) Battery energy storage systems with more than one storage battery technology provided in a room or indoor area.

SECTION 4. Time Period and Prohibition

As of the effective date of this Local Law, there shall be a one (1) year moratorium on the consideration, approval, and/or development of any new Tier 2 and/or Tier 3 battery energy storage installations within the Town of Cicero.

SECTION 5. Relief from Moratorium.

The Town Board may waive strict compliance with the terms of this moratorium upon the application of an owner of property upon which a proposed battery energy storage system would have been permitted in the absence of this moratorium, provided that the applicant can demonstrate, and the Town Board finds, based upon the preponderance of the evidence, that the application of the moratorium to the applicant's property will cause the applicant substantial economic hardship, the proposed battery energy storage system will not harm or endanger the public health, safety, and welfare, and the proposed battery energy storage system is consistent with and compatible with the surrounding land uses.

Application for such relief shall be filed with the Town Code Enforcement Officer, together with a filing fee of \$250.00. Such application shall specifically identify the property involved, recite the circumstances pursuant to which the relief is sought, and the reasons for which the relief should be granted. Any costs, including expert consulting fees or attorneys' fees which are incurred by the Town shall be reimbursed to the Town by the applicant. The Town Board shall apply use variance criteria, as set forth in Town Law §267-b(2) in reviewing any application for relief.

The Town Board shall conduct a public hearing on any request for relief within 45 days of receipt of an application and filing fee by the Town Code Enforcement Officer and shall issue its final decision on requests for relief within 30 days from the date of such public hearing.

In enacting this provision, it is the express intent of the Cicero Town Board to use its power pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3) to supersede the grant of use variance power to the Zoning Board of Appeals set forth in Town Law §267-b(2).

SECTION 6. Penalties

Any person, firm or corporation that shall establish, place, construct, enlarge and/or erect any battery energy storage systems in violation of the provisions of this Local Law, or shall otherwise violate any of the provisions of this Local Law, shall be subject to:

- A. A fine not to exceed \$1,000.00 or imprisonment for a term not to exceed 15 days, or both. Each day a violation continues shall be considered a new offense; and
- B. A civil action inclusive of injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any constructions, improvements or related items or by-products which may have taken place in violation of this Local Law.

SECTION 7. Enforcement

This Local Law shall be enforced by the Code Enforcement Office of the Town of Cicero or such other zoning enforcement individuals as designated by the Town Board. It shall be the duty of the enforcement individuals to advise the Town Board of all matters pertaining to the enforcement of this Local Law.

SECTION 8. Severability

The provisions of this Local Law are severable and if any provision, clause, sentence, subsection, word, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word, or part had not been included therein, and as if such person or circumstance, to which the Local Law or part thereof is held inapplicable, had been specifically exempt therefrom.

SECTION 9. Effective Date

This Local Law shall take effect immediately upon filing with the New York State Secretary of State pursuant to §27 of the Municipal Home Rule Law.

SECTION 10. Termination Date

This Local Law shall become null and void one (1) year after filing, unless extended or terminated by the Town Board.