

STATE OF NEW YORK
DEPARTMENT OF STATE

ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
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KATHY HOCHUL
GOVERNOR

WALTER T. MOSLEY
SECRETARY OF STATE

RECEIVED

JUL 30 2024

TOWN OF GALWAY

July 23, 2024

Town of Galway
Margaret L. DeFoe
5910 Sacandaga Road
Galway, NY 12074

RE: Town of Galway, Local Law 1 2024, filed on 7/16/2024

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



**Department
of State**

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 Galway

Local Law No. 1 of the year 20 24

A local law A Local Law Establishing A Temporary Land Use
(Insert Title)
Moratorium Prohibiting Large Scale
Solar Installations within the Town of Galway

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

County City Town Village
(Select one.)

of Galway as follows:

"See Attached"

(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. 1 of 2024 of the (County)(City)(Town)(Village) of Galway was duly passed by the Galway Town Board on July 9, 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) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2024, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(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) (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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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.)

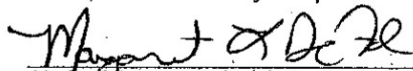
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: July 10, 2024

(Seal)

NEW YORK STATE DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NEW YORK 12231

LOCAL LAW FILING

TOWN OF GALWAY
LOCAL LAW NO. 1 OF 2024

A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE
MORATORIUM PROHIBITING LARGE SCALE
SOLAR INSTALLATIONS WITHIN THE TOWN OF GALWAY

Be it enacted by the Town Board of the Town of Galway as follows:

SECTION 1. TITLE

This Local Law shall be known as the “Moratorium on and Prohibition of Large-Scale Solar Installations Within the Town of Galway”.

SECTION 2. STATUTORY AUTHORITY; PURPOSE AND INTENT.

This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Galway under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law §10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statute of Local Governments § 10(1), (6), and (7); Town Law § 64 (17-a); Town Law § 130(3) and (15); Town Law §135; Town Law Article 16 (Zoning & Planning) inclusive; Environmental Conservation Law §3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this local law.

This Local Law is a land use regulation and is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Town to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive “incidental control” of a zoning law and land use law that is concerned with the broad area of land use planning and the physical use of land and property within Town, including the physical externalities associated with certain land uses, such as potential negative impacts of such uses on a community.

This Local Law shall supersede and suspend those provisions of the Zoning Local Law of the Town of Galway and New York State Laws which require the Planning Board, the Zoning

Board of Appeals and/or the Town's Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

This Local Law is intended to temporarily prohibit the creation or siting of large-scale solar power installations (as herein later defined) and solar energy systems within the Town of Galway for a period of six (6) months, with up to two (2) 90-day extensions as deemed appropriate by the Town Board, pending the development and adoption of local laws designed to regulate and govern such installations.

The Town Board recognizes and acknowledges that the Town needs to study and analyze many considerations that affect the preparation of local legislation to regulate the future creation and siting of large-scale solar installations, including, but not limited to, a new master plan, which is not yet completed. Specifically, the Town Board acknowledges that the current New York State Energy Research and Development Authority (NYSERDA) guidance and industry guidelines operate under a four (4) tier system. The Town Board has formally requested the Attorneys of the Town of Galway to identify and review local laws from other jurisdictions, and related information and source materials, in order to assist in developing the parameters of a local law to regulate large scale solar installations.

The Town Board also recognizes the need to review and examine its existing ordinances, local laws and Zoning Code provisions insofar as they may be affected by adoption of such local law(s) regulating the creation and/or siting of large-scale solar power installations. It is deemed necessary to enact this moratorium in order to permit the Town adequate time in which to draft suitable legislation for this purpose. During the term of the moratorium, the Town of Galway shall work to prepare and eventually adopt new land use regulations to incorporate into the Town's existing Zoning Local Law.

At this time, there are no pending applications for the location, development or site plan approval of a large-scale solar installation, although the Town has been notified of a general interest to construct solar energy systems in town.

During the pendency of the moratorium, the Town Board will consider how best to permit such installations so as to harmoniously integrate such installations with the existing agricultural community and landscape. At present, the Zoning Code of the Town of Galway may not adequately regulate such land use. If the community allows such development during that time, the goals of the Town Comprehensive Plan and its related legislation favoring the successful continuity of agricultural operations could be undermined or damaged. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Town Board finds that temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to develop and adopt necessary zoning and land use changes to the Zoning Code of the Town of Galway, thus protecting and furthering the public interest, health and safety.

SECTION 3. DEFINITIONS.

For the purposes of this Local Law, the Town of Galway shall utilize the tiers and thresholds for Solar Energy Systems as established by current NYSERDA guidance. The following terms shall have the meanings, respectively, set forth below:

A. Tier 1 Solar Energy Systems include the following:

1. Roof-Mounted Solar Energy Systems.
2. Building-Integrated Solar Energy Systems.
3. Ground-Mounted Solar Energy Systems with a Nameplate Capacity of up to 25 kW AC, or equivalent.

B. Tier 2 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 1 Solar Energy Systems with a Nameplate Capacity of up to 1 MW AC, or equivalent, and which directs such produced energy back into the public grid solely to offset their own energy consumption and generates no more than 110% of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems include the following:

1. Ground-Mounted Solar Energy Systems not included under Tier 1 or Tier 2 Solar Energy Systems with a Nameplate Capacity of up to 5 MW AC, or equivalent, for commercial purposes, with an intention of generating power from the sun and converting such power into electricity for resale to or by a third party.
2. Tier 3 Solar Energy Systems include "community solar" systems.

D. Tier 4 Solar Energy Systems are Solar Energy Systems which are not included under Tier 1, Tier 2, or Tier 3 Solar Energy Systems, are greater than 5 MW AC or equivalent, for commercial purposes, and with an intention of generating power from the sun and converting such power into electricity for resale to or by a third party.

E. Large-Scale/Commercial Solar Installation(s) – Any installation of solar energy as defined by Tiers 3 or 4 set forth herein. Large Scale Solar Installations specifically do not include any solar panel collection system defined as Tier 1 or Tier 2 Solar Energy Systems.

SECTION 4. TEMPORARY MORATORIUM and PROHIBITION.

- A. Unless permitted pursuant to Section 5 hereafter, from and after the date this Local Law is adopted by the Town Board, no new applications for a permit, zoning permit, special use permit, zoning variance, site plan approval, subdivision approval, or other Town-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official or agent of the Town of Galway, for the construction, establishment, or use or operation of any

land, body of water, building, or other structure located within the Town of Galway for a Large Scale/Commercial (Tier 3 or 4) Solar Installation, as defined above.

- B. Unless permitted pursuant to Section 5 hereafter, from and after the date this Local Law is adopted by the Town Board, no Person shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Town of Galway for any Large-Scale/Commercial (Tier 3 or 4) Solar Installation, as defined above.
- C. The prohibitions set forth above in Clauses A and B of this Section are not intended, and shall not be construed, to prevent or prohibit the use and development of solar panel arrays or collection systems for an personal or individual use on or about any residence, or any family farm, so long as such use does not produce energy for the purpose of use by or resale to or by any third party. The term "use by or resale to or by any third party" as used immediately above shall not be construed to include any individual that directs such produced energy back into the public grid solely to offset their own energy consumption.
- D. This moratorium and prohibition shall be in effect immediately upon its adoption and subsequent filing with Secretary of State and shall expire on the earlier of (i) that date which is three (6) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating the Town Board has determined that the need for this moratorium and prohibition no longer exists.
- E. This moratorium and prohibition shall apply to all real property within the Town of Galway and all land use applications for the siting or creation of Large-Scale Solar Installations within the Town of Galway.
- F. Under no circumstances shall the failure of the Town Board of the Town of Galway, the Zoning Board of Appeals of the Town of Galway, the Planning Board of the Town of Galway, or the Code Enforcement Officer of the Town of Galway, to take any action upon any new applications for a permit, zoning permit, special use permit, zoning variance, site plan approval, subdivision approval, or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

SECTION 5. HARDSHIP VARIANCE RELIEF FROM APPLICABILITY OF MORATORIUM.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this local law following a noticed public hearing before the Town Board, at which hearing the Town Board may consider:

- A. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other environmental concerns.

- B. The impact of the proposed application on the applicant's premises and upon the surrounding area.
- C. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.
- D. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of Galway.
- E. The written opinion of the Town of Galway Planning Board and the Town of Galway Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.
- F. Such other reasonable considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be consistent with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner which is unique to the property owner, and a finding that the grant of any exemption will be in harmony with and will be consistent with the recommendations of the Comprehensive Plan.

An application for relief of application of the moratorium shall be accompanied by a fee of \$500, together with the applicant's written undertaking, in a form to be approved by an Attorney for the Town, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application, including but not limited to any fees incurred by the Town for services provided by an Attorney for the Town.

SECTION 6. PENALTIES.

- A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500) or imprisonment for not more than ten (10) days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) or imprisonment for a period of not more than 30 days, or both. For the purposes of this Clause A, each day that a violation of this Local Law exists shall constitute a separate and distinct offense.
- B. Compliance with this Local Law may also be compelled, and violations restrained by order of or injunction by a court of competent jurisdiction in an action brought on behalf of the Town by the Town Board.
- C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all costs incurred by the Town relative

thereto, including attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the propert(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

SECTION 7. CONFLICTS.

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Code provision.

SECTION 8. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary, as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed here from, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and person or circumstances, a portion hereof is severed or declared invalid or unenforceable.

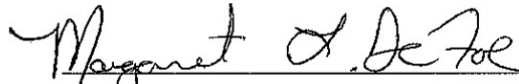
SECTION 9. EFFECTIVE DATE.

The effect date of this Local Law shall be immediately upon its adoption by the Town Board and its subsequent filing with the Secretary of State and shall be immediately effective upon a person or business individually served with a copy thereof before its filing with the Secretary of State.

CERTIFICATION

I hereby certify that the Local Law designated as Local Law No. 1 of 2024 of the Town of Galway was duly adopted by the Town Board of the Town of Galway on July 9, 2024 in accordance with the applicable provisions of Law.

I further certify that I have compared the preceding Local Law No. 1 of 2024 with the original Local Law on the file in this office, and that the same is a correct transcript therefrom and of the whole of such original Local Law, and that such Local Law was finally adopted by the Town Board of the Town of Galway on July 9, 2024.



Margaret L. DeFoe, Town Clerk

July 10, 2024