

State of New York,  
City and County of Schenectady

ss.:

Notice is hereby given that the Town Board of the Town of Galway will hold a Public Hearing & Special Meeting on November 19, 2019 at 7:00 p.m. at the Galway Town Hall, 5910 Sacandaga Road, Galway New York. The purpose of Public Hearing & Special Meeting is to receive comments from the public and taking action on Proposed Local Law No. 1 of 2019. Proposed Local Law would establish a three month temporary land use moratorium prohibiting large scale solar installations with in the Town of Galway. Town Board will hold a Special Meeting immediately following Public Hearing to take action on proposed Local Law. At said Public Hearing any person may be heard in favor or against Proposed Local Law as compiled or for or against any item or items as there in contained. Copies of the proposed Local Law are available for inspection by any interested person during regular Town Clerk hours or on Town of Galway website: townofgalwayny.org on home page under "Quick Links". By order of the Galway Town Board  
Margaret L. DeFoe, Town Clerk  
11/14 2392831

Patricia A. Suwinski of the City of Schenectady, being duly sworn, says that he/she is Principal Clerk in the office of the Daily Gazette Co., published in the City of Schenectady and that the notice/advertisement, of which the annexed is a printed copy, has been regularly published in the Daily Gazette and/or Sunday Gazette as follows:

1 insertion November 14, 2019

*Patricia A. Suwinski*

Sworn to me on this 23rd day of December, 2019

NOTARY PUBLIC

*Paula A. Opel*

PAULA A. OPEL

COMMISSIONER OF DEEDS

MY COMMISSION EXPIRES 07/22/2021

PUBLIC HEARING  
NOVEMBER 19, 2019  
GALWAY TOWN HALL

Supervisor Smith called the Public Hearing to order at 7:00 p.m. The following Town Board Members were present:

PRESENT: Supervisor Michael Smith      Councilman Fred Arnold  
                 Councilman Rod Wilday      Councilwoman JoAnne Peregrim-Grant  
                 Councilman Ryan Flinton

OTHERS PRESENT: J. Trainor, Planning/ZBA Attorney & M. DeFoe, Town Clerk.

Town Clerk stated legal notice was placed in Daily Gazette on November 14, 2019 and posted at Town Hall; Library; Post Office, Bank & Town Website advising the public of a Public Hearing & Special Town Board Meeting to be held on November 19, 2019 at 7:00 p.m. Proposed Local Law was also placed on Town website for public review. The purpose of Public Hearing & Special Meeting is to receive comments from the public and take action on Proposed Local Law No. 1 of 2019 which would establish a three-month temporary land use moratorium prohibiting large scale solar installations within the Town of Galway. There were no questions from audience and no written communications was received regarding proposed Local Law. Councilman Wilday made a motion, seconded by Councilman Flinton to close the Public Hearing on Proposed Local Law No. 1-2019 at 7:02 p.m.

All ayes.

MOTION CARRIED

SPECIAL MEETING  
NOVEMBER 19, 2019  
GALWAY TOWN HALL

Supervisor Smith called the Meeting to order at 7:02 p.m. The same Town Board Members were present. Audience – Same as Public Hearing.

**RESOLUTION #: 51-2019** – 3 Month Moratorium Prohibiting Large Scale Solar Installations Within the Town of Galway. On a motion of Councilman Flinton, seconded by Councilman Arnold the following resolution was ADOPTED BY ROLL CALL VOTE:  
Supervisor Michael Smith – AYE                      Councilman Fred Arnold – AYE  
Councilman Rod Wilday – AYE                      Councilwoman JoAnne Grant – AYE  
Councilman Ryan Flinton – AYE

WHEREAS, Local Law 1 of 2019, attached hereto, proposes to impose a 3-month moratorium on large solar energy systems; and

WHEREAS, the moratorium is necessary to allow the Town Board to consider and implement a solar energy local law; and

WHEREAS, a public hearing was held regarding the proposed moratorium in a duly

noticed Public Hearing on the proposed Local Law at a special meeting of the Town Board meeting on November 19, 2019; and

WHEREAS, pursuant to 6 NYCRR §617.5 (a) and (c)(30), the Town Board's consideration and adoption of a moratorium on land development is a Type II Action and is not subject to review under SEQRA;

Now, therefore, be it

RESOLVED, that pursuant to the Town Board's authority under NYS Town Law §261-C and Municipal Home Rule Law §10, the proposed Local Law No.1 of 2019, imposing a Moratorium on Large Solar Energy Systems, is hereby adopted; and be it further

RESOLVED, that the Town Clerk is hereby directed to publish a descriptive notice of the adoption of the Local Law No. 1 of 2019 within 5 days of its adoption by the Town Board;

TOWN OF GALWAY  
LOCAL LAW NO. 1 OF 2019

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 Law 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); Statue 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. This Local Law 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 the Town of Galway and New York State Law which require the Planning Board and/or the Town 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 up to three (3) months, 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. The Town Board has formally requested the Planning and Zoning Attorney 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 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 developer's interest to construct a solar energy system 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 purpose of this Local Law, the following terms shall have the meanings respectively set forth below:

**Large Scale Solar Installations(s)** – Any installation of solar energy systems, panels, equipment and/or buildings or structures undertaken 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 (which does not include any individual that directs such produced energy back into the public grid solely to off-set their own energy consumption). Large Scale Solar Installations specifically do not include any solar panel collection system or array undertaken by individual landowners, householders or farmers for their own person use.

### **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 application for permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, 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 an Large Scale 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 Solar Installation, as defined above.
- C. The prohibitions set forth above in Clauses A. and B. of this Section 4. 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 his three (3) 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 application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, 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 jeopardize 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 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 or by injunction of 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 property(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.

5- AYES 0-NAYS

MOTION CARRIED

Councilman Arnold made a motion, seconded by Councilwoman Grant to adjourn the Special Town Board Meeting at 7:04 p.m.

All ayes.

MOTION CARRIED

Respectfully submitted,



Margaret L. DeFoe  
Town Clerk