

**NOTICE OF PUBLIC HEARING BY THE TOWN BOARD
OF THE TOWN OF BATAVIA, NEW YORK
TO CONSIDER ADOPTING A PROPOSED LOCAL LAW**

PUBLIC NOTICE is hereby given that there has been presented to the Town Board of the Town of Batavia, New York on the 30th day of December, 2020, proposed Local Law No. 1 of 2021 entitled "A Local Law Establishing a Town of Batavia Moratorium on Solar Energy Systems". Said Local Law primary objective is to advance the Town's constitutional and statutory obligation to protect and preserve the public health, welfare, and safety of the citizens of the Town of Batavia, as well as the value, use and enjoyment of property in the Town, through the temporary prohibition of the construction or modification of Solar Energy Systems as defined in Section 235-53.1 of the Zoning regulations of the Town of Batavia, pending review and revisions of the Town Comprehensive Plan and Zoning Regulations.

PLEASE TAKE FURTHER NOTICE that on 20th day of January, 2021 at 7:00 o'clock in the afternoon of that day the Town Board of the Town of Batavia, New York will conduct a public hearing via ZOOM video conference/call conference:

<https://zoom.us/j/95719026055?pwd=QWg4K3RKS3l1Y3B0VVZBV2d3Q1pqQT09>
1-646-558-8656 US (New York)
Meeting ID: 957 1902 6055
Passcode: 032536

for the purpose of considering the advisability of enacting said proposed Local Law, at which time and place all persons interested will be heard.

A copy of said proposed Local Law is on file at the office of the Batavia Town Clerk, 3833 West Main Street Road, Batavia, New York and is open for inspection during regular Office hours and is posted on the Town's website at www.townofbatavia.com

Dated: December 30, 2020

Teresa M. Morasco, Town Clerk
Town of Batavia, New York

(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~~ of Batavia, Genesee County, New York
~~Town~~
~~Village~~

Local Law No. 1 of the year 2021.

A local law known as Town of Batavia Moratorium on Solar Energy Systems
(Insert Title)

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

~~County~~
~~City~~ of **Batavia, Genesee County, New York** as follows:
~~Town~~
~~Village~~

ARTICLE I: ENACTMENT, AUTHORIZATION, TITLE, PURPOSE

Section 101: Enactment and Authorization

The Town Board and the Town of Batavia does hereby ordain and enact the Town of Batavia Moratorium on Solar Energy Systems, pursuant to authority and provisions of Section 10 of the Municipal Home Rule Law of the State of New York and Article 16 of the Town Law of the State of New York.

Section 102: Title

This local law shall be known as the “Town of Batavia Moratorium on Solar Energy Systems.”

Section 103: Purpose

- a) The purpose of this Local Law is to advance the Town’s constitutional and statutory obligation to protect and preserve the public health, welfare, and safety of the citizens of the Town of Batavia, as well as the value, use and enjoyment of property in the Town, through the temporary prohibition of the construction or modification of Solar Energy

Systems as defined in Section 235-53.1 of the Zoning Regulations of the Town of Batavia, pending review and revisions of the Town Comprehensive Plan and Zoning Regulations.

- b) It is the further purpose of this Local Law to prevent and avoid serious detrimental health and environmental impacts which threaten the Town of Batavia by allowing degradation of its significant environmental and agricultural resources, and preserve the conscious and continuous determination by the Town to resolve and lessen such threats to the health, safety and welfare of the citizens of the Town.
- c) It is the further purpose of this local law to enable the Town of Batavia to prevent the construction or erection of Solar Energy Systems as defined in Section 235-53.1 of the Zoning Regulations of the Town of Batavia for a reasonable period of time pending the Town Board's review and revisions to the Town Comprehensive Plan and Zoning Regulations governing the construction of such systems in the Town of Batavia.

ARTICLE II: IMPOSITION OF MORATORIUM

Section 201: Imposition of Moratorium

After the date of filing this local law with the Department of State, no application for the construction or erection of Solar Energy Systems, or modification for any existing facility, as defined in Section 235-53.1 of the Town of Batavia Zoning Regulations may be filed or processed. No Board or Town official may consider, grant, or approve any application for any permit or approval, including special use permit, variance, rezoning, or building permit. For the purpose of this local law, an "application" shall be deemed to mean any request for official action by the Town Board, Planning Board, Zoning Board, Code Enforcement Officer, or Building Inspector which would in any way commence the process whereby Solar Energy Systems are or may be constructed, modified, or erected. This moratorium shall be effective for one hundred eighty (180) days after the date of filing this local law with the Department of State or until the Batavia Town Board acts on all of the aforementioned amendments to the Town Comprehensive Plan and Zoning Regulations, whichever is the shorter period of time.

Section 202: Variance

An application for a variance from the terms of this moratorium may be submitted, with a \$100 fee, to the Town Clerk. Notwithstanding the provisions of Article 16 of the Town Law and the Zoning Regulations of the Town of Batavia, such variance requests shall be considered by the Town Board in accordance with the requirements for a use variance.

ARTICLE III: VALIDITY

Section 301: Validity

If any section, sentence, clause or phrase of this local law is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this local law.

Section 302: Supersession

The requirements of Article 16 of the New York Town Law and Town Law sections 267-a, b, and c, are hereby superseded in that the Town Board shall be the body to consider variance requests under this moratorium. The time periods for holding public hearings and issuing decisions on applications set forth in Article 16 of the New York Town Law, including but not limited to Town Law sections 264, 267-a, b, and c, 274-a, 274-b, 276, 277, and 278, are hereby superseded.

ARTICLE IV: EFFECTIVE DATE

Section 401: Effective Date

This local law shall take effect immediately upon filing with the Department of State.

(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 2021, of the ~~(County)~~ ~~(City)~~ (Town) ~~(Village)~~ of Batavia, New York was duly passed by the Town Board on _____, in accordance with the applicable provisions of law.

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) _____ was duly passed by the _____ on _____ 20____, and was (approved) (not disapproved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, 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 disapproved) (repassed after disapproval) by the _____ on _____ 20____. 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 Town Board on _____ 20____, and was (approved) (~~not disapproved~~) (~~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 chairman 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 of 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 1, above.

(SEAL)

Teressa Morasco

Town Clerk, Town of Batavia

Date: _____, 2021

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ORLEANS

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Andrew W. Meier
Town Attorney

County
City of Batavia
Town
Village