

# 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 Chester

Local Law No. 2 of the year 2016

A local law RS- Technology Overlay District (New Residential- Single Family Zoning District With  
(Insert Title)  
Internet Incubator Technology and Research Park Overlay)

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

County  City  Town  Village  
(Select one:)

of Chester

as follows:

1. INTENT: The intent of this local law is twofold. First, to zone land that was annexed into the Village of Chester, New York that currently has no listed zoning designated in the Village Code. Second, the Village wishes to encourage clean commercial ratables into the Village.

The annexed, unzoned land is known as the property of BT Holdings LLC referenced as Tax Parcel 120-1-2 consisting of approximately 60.6 acres. There are also two adjacent parcels of property of BT Holdings LLC in the Village to be subject to this new zoning, (Tax Parcels 108-1-1 and 107-3-4 consisting of approximately 4.0 acres). The foregoing three parcels of land are known herein collectively as the "Property."

First, the purpose of this Local Law is to expressly designate by provisions within the Village that recognizing the prior vested rights acquired by BT Holdings LLC, a use as-of-right for this Property exists and is for no greater than 120 residential-single family detached dwelling units. This express as of right provision now in the Code concerning the Property is the subject matter of this Local Law. Second, with this new Single Family Residential Zoning District, an Internet Incubator Technology and Research Park Overlay ("RS-Technology Overlay District") will be established for this Property as the Village wishes to encourage clean commercial ratables that can be approved by Special Permit by the Village Board of Trustees. The purpose of the technology overlay is for the reasons set forth below.

Historically because New York State welcomed business, the entire state of New York thrived. New York's willingness and flexibility to provide a place for new ideas to develop without excessive governmental regulation made New York the "Empire State." As land use became overly regulated in New York State, the flexibility to provide Internet Incubator, Technology and Research space to be sited in New York State has become compromised. Outside of major metropolitan areas, land use regulation has struggled to respond and proactively shape the dynamic process that creates space for these vibrant and diverse businesses. An overarching role of local government in a market based economy is to provide a frame work that will support healthy and robust competition to attract the most dynamic potential economic development concerning internet research and technology.

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

The Village Zoning should facilitate an outcome that encourages such young and dynamic businesses to locate within the Village and not be relegated to a reactionary role in which standards are set based upon outmoded concepts of what new incubator internet, technology and research as well as a technology business in general require. Zoning is seldom a mechanism that makes things happen. Zoning is something that allows things to happen. Therefore, the new technology and research overlay is created for this Property to address these issues.

A purpose of this new Overlay Zoning District for this Property is to provide planned site development and employment opportunity for those professionals interested in starting or continuing in Internet Technology and Research as well as related technology and research within a park-like atmosphere. The Overlay District is oriented toward education, research and development offices for high technology activity and uses as well as other new and creative Internet Technology and Research. Activities that can accomplish the purpose of this District being created for this Property which is the only property in the Village without an expressly designated Zoning District in the Village Code.

## 2. PERMITTED USES:

A. Within this District, the following principal uses are permitted as of right:

Residential-single family detached dwelling units in accordance with the RS provisions of the Village Code, but with a lot count of such dwelling units not to exceed one hundred and twenty (120) such units.

B. Solely within the RS Technology Overlay District unique to this property, only the following uses are permitted by Special Permit from the Village Board of Trustees.

1. Internet Software Development and Research;
2. Computer programming and other software and telecommunications services and uses;
3. Business incubator facilities;
4. Educational, scientific and research activities;
5. Laboratories for research, development, testing and related production activities pertinent to product development;
6. Medical research including but not limited to pharmaceuticals, biomedical technologies, medical instruments and supplies, surgical appliances and supplies, dental equipment and supplies, x-ray apparatus, MRI and CAT scan research and apparatus and electromedical equipment;
7. Laboratories medical, dental, optical, pharmaceutical and related activities;
8. Production of Medical, surgical, and dental devices as well as the supply of those devices;
9. Office buildings for government and scientific research activities;
10. Such other Internet Incubator Technology and Research activities that the Village Board approves by Special Permit.

C. Accessory Uses – Accessory structures and uses as defined in Chapter 98 of the Village Code.

3. APPROVAL PROCESS FOR RESIDENTIAL-SINGLE FAMILY DETACHED DWELLING UNITS IN THIS DISTRICT: All as-of-right use is single family residential detached dwelling units in this District shall comply with all bulk requirements of the Village Code under the Article VII concerning Building Permits and Village of Chester Subdivision Regulations and Chapter 84 of the Village Code. The lot count is as previously established when the annexed portion of this Property was within the Town of Chester (Town SR-6 Zone).

4. SPECIAL PERMIT APPROVAL PROCESS: Any Applicant seeking approval in this Overlay District regarding any Special Permit use or uses for this specific Property may first submit only a Concept Plan to the Village Board. The definition and requirements concerning the Concept Plan submittal are set forth herein. If the Concept Plan is determined to be consistent in general with Section 98-24 by the Village Board of Trustees, then and in that event the Concept Plan shall be forwarded by the Village Board of Trustees to the Village Planning Board for a Report and Recommendations. The Report and Recommendations by the Planning Board shall be provided within sixty-two (62) days of the receipt from the Village Board of Trustees of the referral regarding the Concept Plan. Should the Planning Board not respond within said sixty-two (62) days, the Village Board of Trustees can act without any Report or Recommendation from the Planning Board. Upon receipt of the Report and Recommendations from the

Planning Board or the failure of the Planning Board to timely so respond, the Village Board of Trustees shall then proceed to review the Concept Plan submitted pursuant to the guideline principles and standards set forth in the Village Code at Section 98-24. Any such Special Permit issued by the Board of Trustees can be renewed pursuant to the provisions of the Village Code at Section 98-26. Should the Village Board of Trustees deny the application for a Special Permit following a Public Hearing, the Applicant shall not proceed any further and no authorization for any use within the Overlay District shall be granted. If the Village Board of Trustees grants the Special Permit, that grant may be upon such conditions as the Village Board sets. Upon the grant of the Special Permit by the Board of Trustees, the Applicant shall then make application to the Planning Board for the Site Plan Approval pursuant to Article VI of the Village Code.

5. CONCEPT PLAN REQUIRED: Every applicant shall present to the Village Board prior to submission of any plans for site plan approval a Concept Plan regarding this specific Property. The Concept Plan may include any information the Applicant desires the Village Board to consider, but shall include the following specific information:

1. The general lay-out of any proposed structure on the property;
2. An architectural rendering of any structure on the property;
3. A detailed description of the type of activities to be conducted on the property;
4. The type and number of permanent employees to be employed at the site in all phases of development;
5. The identity of file proposed contractors, architects, engineers and other professionals to be utilized by the Applicant for the site approval process and construction process;
6. A brief description of the principals involved in the project and any record of incubator businesses, Internet, technology or research success; and
7. The financial and other ability of the Applicant to complete the Project after any approvals are obtained.
8. How the aesthetic and visual impacts of any development are being considered as well as impacts on the architectural and community character of the Village.

6. MINIMUM REQUIREMENTS FOR ANY OVERLAY DISTRICT USES IN THIS ZONING DISTRICT: Any activity permitted in this Overlay District must be for property having a minimum of twenty-five (25) acres in the RS-Technology Overlay District and for property with primary access on a State or County road. The height of any structure in this Overlay District will be limited to thirty-five (35) feet and a 30% building lot coverage limit with no primary structure or parking area being closer than two hundred (200) feet to a property line. The phrase "Building Lot Coverage" in this District shall include all impermeable surfaces. Off street parking and loading shall be consistent with Section 98-20 of the Village Code.

Additionally, no single structure in this Overlay Zoning District may exceed 85,000 square feet. The design of any structure shall be consistent with the community character of the Village. In planning the layout of any commercial structure on the Property, every effort shall be made to locate such structure or structures nearer to the non-residential uses on all adjoining property. Should a mix of residential and commercial structures be proposed, that layout should provide for any residential structures to be located near the existing adjoining residential properties to this site.

Notwithstanding the foregoing, the Village Zoning Board of Appeals for good cause shown may waive, vary or otherwise modify any of the terms land conditions of the Village Zoning Code for this Overlay District for this specific Property to protect the health, safety and welfare of Village residents with regard to/any Overlay District uses as allowed by Village Law.

(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. 2 of 2016 of the (County)(City)(Town)(Village) of Chester was duly passed by the Village Board on June 30, 2016, 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) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (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 approved) (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 \_\_\_\_\_ 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.

\* 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 <sup>1</sup> \_\_\_\_\_ above.

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

Date: 7/14/16

(Seal)

STATE OF NEW YORK  
**DEPARTMENT OF STATE**

ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001  
WWW.DOS.NY.GOV

ANDREW M. CUOMO  
GOVERNOR

ROSSANA ROSADO  
SECRETARY OF STATE

July 20, 2016

Village Clerk  
47 Main Street  
Chester NY 10918

**RE: Village of Chester, Local Law 2 2016, filed on July 20, 2016**

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](http://www.dos.ny.gov).

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



**Department  
of State**

**VILLAGE OF CHESTER**

**LOCAL LAW NO. 3 OF 2016**

**A LOCAL LAW ESTABLISHING A SIX-MONTH MORATORIUM PROHIBITING  
THE PERMITTING, CONSTRUCTION OR INSTALLATION OF  
COMMERCIAL POWER GENERATING FACILITIES WITHIN THE VILLAGE**

Be it enacted by the Village Board of the Village of Chester as follows:

Section 1. Title

This Local Law shall be referred to as the “A Local Law Establishing a Six-Month Moratorium Prohibiting the Permitting, Construction or Installation Of Commercial Power Generating Facilities Within the Village.”

Section 2. Purpose and Intent

Recognizing the need to regulate commercial power generating facilities within the Village of Chester, the Village Board is in the process of adopting regulations with respect to the construction and operation of such commercial power generating systems within the Village in order to insure that newly installed facilities are safe and in the appropriate zoning districts within the Village. Pending adoption of the aforesaid regulations, it is necessary for the Village Board to take reasonable temporary measures to prohibit the permitting, construction or installation of commercial power generating facilities within the Village in order to protect the public interest and welfare.

Pursuant to the statutory powers vested in the Village of Chester (the “Village”) to regulate and control land use and to protect the health, safety and welfare of its residents, the Village Board of the Village of Chester hereby declares a six-month moratorium on certain approvals relating to the permitting, construction or installation of commercial power generating facilities within the Village.

Section 3. Scope of Controls

A. During the effective period of this Local Law:

1. No permit shall be issued for the permitting, construction and/or installation of commercial power generating facilities within the Village of Chester without the approval of the Village Board of the Village of Chester, which approval will not be considered except in the event of proven hardship.

2. The Village Planning Board shall not accept any application or grant any approval to a subdivision plat, site plan, special use permit or other permit that includes the permitting, construction and/or installation of commercial power generating facilities in residential districts within the Village or would have as a result the enlargement, relocation, or modification of an existing facility.

3. The Village Zoning Board of Appeals shall not accept any application or grant any approval for a variance or other permit that would have as a result the permitting, construction or installation of commercial power generating facilities in residential districts within the Village.

4. The Village of Chester Building Department shall not accept any building permit application or grant any Certificate of Occupancy or Certificate of Compliance for any permitting, construction or installation of commercial power generating facilities within the Village.

B. The term “commercial power generating facility” shall be broadly construed as a facility for the generation of electric power to be marketed and sold to users, who are not the owners of the property on which such facility is located, containing equipment to convert solar, wind, hydroelectric driven or mechanical power into electrical power. The energy sources harnessed to create electricity shall include, but not be limited to, fossil fuels such as coal, oil, and natural gas, as well as the sun, wind and water.

#### Section 4. Term

The moratorium imposed by this Local Law shall be in effect from six months from the effective date of this Local Law.

#### Section 5. Penalties

Any person, firm or entity that shall construct and/or install a commercial power generating facility within the Village or would have as a result the enlargement, relocation, or modification of an existing facility 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. Such penalties as may otherwise be provided by applicable local laws, rules, regulations of the Village for violations; and

B. Injunctive relief in favor of the Village to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law.

Any application accepted or approval granted in violation of this Local Law shall be null and void.

#### Section 6. Validity

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.



## Section 7. Hardship

A. Should any owner of property affected by this Local Law suffer an unnecessary hardship due to the enactment and application of this Local Law, then the owner of said property may apply to the Village Board of the Village of Chester in writing for a variance from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.

B. Procedure. Upon submission of a written application to the Village Clerk by the property owner seeking a variance of this Local Law, the Village Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days' written notice in the official newspaper of the Village of Chester. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Village Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law. If the Village Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Village Board shall vary the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

## Section 8. Effective Date

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

**VILLAGE OF CHESTER BOARD OF TRUSTEES  
NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that, on March 14, 2016, at 6:30 p.m., or as soon thereafter as the matter may be heard, at the Village Office, 47 Main Street in the Village of Chester, the Board of Trustees of the Village of Chester, Orange County, New York, will conduct a public hearing regarding the proposed adoption of a local law, Introductory Local Law No. 3 of 2016, A Local Law Establishing A Six-Month Moratorium Prohibiting The Permitting, Construction or Installation Of Commercial Power Generating Facilities Within the Village, at which time and place all interested persons may appear and will be given an opportunity to be heard either in support of, or in opposition to, the proposed local law.

The full text of Introductory Local Law No. 3 of 2014, A Local Law Establishing A Six-Month Moratorium Prohibiting The Permitting, Construction or Installation Of Commercial Power Generating Facilities Within The Village, is filed with, and is in the custody of, the Village Clerk at 47 Main Street, Chester, New York, is posted at said office, and may be examined by any interested person during regular business hours at the above address up to and including 4:30 p.m., on March 14, 2016.

BY ORDER OF THE BOARD OF TRUSTEES OF THE  
VILLAGE OF CHESTER, NEW YORK

Rebecca Rivera  
Village Clerk

Dated: February 8, 2016