

## **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.