

LOCAL LAW
MORATORIUM ON THE CONSTRUCTION/INSTALLATION
OF WIND ENERGY DERIVING
TOWERS AND TRANSMISSION FACILITIES LAW

Local Law #1 of 2011.

A local law entitled “Moratorium on the Construction/Installation of Wind Energy Deriving Towers and Transmission Facilities Law”

Be it enacted by the Board of Trustees of the Village of Chester, in the County of Orange, as follows:

Section 1. PURPOSE.

(A) It is the purpose of this law to address potential health, environmental, safety and planning concerns by preventing and avoiding, for a reasonable period of time, the construction and installation of wind energy deriving towers and transmission facilities, which may seriously and detrimentally impair the safety of the citizens of the Village of Chester, and contribute to the degradation of the significant environmental resources of the Village of Chester. It is the further purpose of this law to allow the Village of Chester time to evaluate and effectuate solutions to the potential safety and environmental issues and concerns, and in order not to undermine the conscious and continuous determination by the Village of Chester to resolve and lessen such threats to the health, safety and welfare of the citizens of the Village of Chester.

(B) It is the further purpose of this law to enable the Village of Chester to suspend the construction and installation of wind energy deriving towers and transmission facilities, for a reasonable period of time pending the completion of a master plan for the construction and installation of such wind energy deriving towers and transmission facilities in the Village of Chester, and pending the adoption of local laws necessary to effectuate that master plan through amendments to the zoning laws of the Village of Chester and other appropriate local laws of the Village of Chester required to conform to such master plan.

(C) It is further the purpose of this law to fulfill the Village of Chester’s constitutional, statutory and legal obligations to protect and preserve the public health, welfare and safety of the citizens of the Village of Chester and in particular to protect the safety of its citizens and the value, use and enjoyment of property in the Village of Chester, to prohibit the filing of new applications for the construction and installation of wind energy deriving towers and transmission facilities and thus defer official governmental action permitting the construction and installation of such towers and facility until the Planning Board and Village Board have instituted and completed proceedings on recommendations for adoption of the wind energy deriving towers and transmission facilities master plan, amendments to the Zoning Local Law of the Village of Chester, and other local laws of the Village of Chester.

Section 2. IMPOSITION OF MORATORIUM.

(A) For a period of one hundred eighty (180) days from and after the adoption date of this local law, no application for the construction or installation of a wind energy deriving towers and transmission facilities may be filed, accepted or processed, except as provided in paragraph (B) below and Section "3" of this local law. For the purpose of this local law, an application for the construction and installation of a wind energy deriving towers and transmission facilities shall be deemed to mean and include any request for official action by the Village Board, Zoning Board of Appeals, Planning Board, any building or zoning enforcement officer, or any other board, officer or agency of the Village of Chester, which request and approval would in any way commence or continue the process whereby a wind energy deriving towers and transmission facilities is or may be constructed or installed.

(B) The imposition of this local law shall not affect the processing of applications for the construction and installation of wind energy deriving towers and transmission facilities which have been received and approved prior to the effective date of this local law. No new applications for the construction and installation of wind energy deriving towers and transmission facilities shall be considered by any board, officer or agency of the Village of Chester while the moratorium imposed by this local law is in effect.

Section 3. ALLEVIATION OF HARDSHIP.

(A) The Village Board of the Village of Chester may authorize exceptions to the moratorium imposed by this local law when it finds, based upon evidence presented to it, that deferral of action on an application for the construction and installation of a wind energy deriving towers and transmission facilities, and the deferral of approval of such application for the duration of the moratorium would impose an extraordinary hardship on the landowner or applicant.

(B) A request for an exception based upon extraordinary hardship shall be filed with the Village Clerk or designee, including a fee of Five Hundred and 00/100 Dollars (\$500.00) to cover the processing and advertising costs, to be paid by the landowner, or by the applicant with the consent of the landowner, and shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship, and shall contain such other information as the Village Clerk or designee shall prescribe as necessary for the Village Board to be fully informed with respect to the application.

(C) A public hearing on any request for an exception based on extraordinary hardship shall be held by the Village Board at the first regular meeting of the Village Board that occurs after the expiration of the period for publication of notice of the request for an exception.

(D) In reviewing an application for an exception based upon a claim of extraordinary hardships, the Village Board shall consider the following criteria:

(1) The extent to which the proposed construction/installation would cause significant environmental degradation, adversely impact natural resources or cause public health or safety concerns.

(2) Whether the moratorium will expose the applicant to substantial monetary liability to third persons or would leave the applicant completely unable, after a thorough review of alternative solutions, to earn a reasonable return on the property.

(3) The extent to which actions of the applicant were undertaken in a good faith belief that the proposed construction/installation would not lead to significant environmental degradation, undue adverse impacts on natural resources or public health or safety concerns.

(E) At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Village Board shall act upon the request to approve, deny, or approve in part and deny in part the request made by the applicant.

Section 4. PENALTIES. Any person, firm or corporation that shall establish, place, construct, enlarge, install or erect any wind energy deriving towers and transmission facilities, 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. In addition to any other penalties that may be invoked under this Local Law, any person, firm or corporation violating any of the provisions of this Local Law shall be punishable by a maximum fine of \$250, or a maximum term of imprisonment of 15 days, or both. In the case of continuing violation of this Local Law, each week that such violation exists shall constitute a separate and distinct offense.; and

B. In addition to the above provided penalties and punishment, the Village of Chester may also maintain an action in the name of the Village of Chester, in any court of competent jurisdiction, for injunctive relief in favor of the Village of Chester 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.

Section 5. SUPERSESSON AND SUSPENSION OF OTHER LAWS. This Local Law supersedes and suspends all prior local laws, to the extent that said prior local laws conflict with the moratorium set forth herein, but only for the duration of this moratorium. This Local Law, to the extent permitted by law, further supersedes and suspends any other law that may require acceptance, hearing, consideration, determination or any other action with respect to any application or request for the construction and installation of a wind energy deriving towers and transmission facilities, until the expiration or termination of this local law.

Section 6. SEVERABILITY. In the event that any clause, sentence, section or other part of this Local Law is declared to be invalid, such invalidity shall not affect the remainder of this chapter.

Section 7. EFFECTIVE. This Local Law shall become effective immediately upon filing with the Office of the Secretary of State pursuant to the Municipal Home Rule Law.

**VILLAGE OF CHESTER BOARD OF TRUSTEES
NOTICE OF ADOPTION OF LOCAL LAW 1 of 2011**

NOTICE IS HEREBY GIVEN that, on July 11, 2011, at a regularly scheduled meeting, the Board of Trustees of the Village of Chester adopted Local Law No. 1 of 2011 entitled "Moratorium on the Construction/Installation of Wind Energy Deriving Towers and Transmission Facilities Law"

The full text of Local Law No. 1 of 2011 is filed with, and is in the custody of, the Village Clerk at 47 Main Street, Chester, New York, and may be examined by any interested person during regular business hours.

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

Rebecca Rivera

Village Clerk

Dated: July 11, 2011.