

Local Law No. 3 of 2017, entitled:

“Clear Cutting Moratorium”

BE IT ENACTED BY, the Town Board of the Town of Clinton as follows:

Section 1. PURPOSE

The Town of Clinton is currently examining the effects and suitability of establishing a land use regulatory scheme regarding the clear cutting of forested land in the Town of Clinton. The Town Board believes that a period of time is needed in order to adequately review, study and plan for such a land use regulatory scheme. The intent of this Local Law is to promote the public health, safety, and welfare of the people of the Town of Clinton by preventing the clear cutting of forested land and thus preserving the environment and quality of the community in the interim.

Section 2. AUTHORITY

This moratorium is enacted by the Town Board of the Town of Clinton pursuant to its authority to adopt local laws under the New York State Constitution Article IX and N.Y. Municipal Home Rule Law §10.

Section 3. ENACTMENT OF TEMPORARY MORATORIUM

For a period of six (6) months following the effective date of this Local Law, after which date this Local Law shall lapse and be without further force and effect, and subject to any other Local Law adopted by the Town Board during the six (6) month period there is enacted a moratorium prohibiting the clear cutting of forested land, as defined below, in the Town of Clinton.

Section 4. DEFINITION

For purposes of this temporary moratorium, clear cutting shall be defined as follows:

Clear Cutting: The felling of all, or substantially all, trees on a given tract or parcel of land.

Section 5. CONFLICT WITH STATE STATUTES AND AUTHORITY TO SUPERSEDE

To the extent that any provisions of this Local Law are in conflict with or are construed as inconsistent with the provision of the N.Y. Town Law this Local Law supersedes, amends and takes precedence over the N.Y. Town Law pursuant to the Town’s municipal home rule powers, pursuant to N.Y. Municipal Home Rule Law §10(1)(ii)(d)(3); §10(1)(ii)(a)(14) and §22 to supersede any inconsistent authority.

This Local Law supersedes any inconsistent provisions of the N.Y. Town Law Article 16 and Chapter 250 of the Town of Clinton Town Code which require any board, agency, or department of the Town to act upon, hold hearings on, and make decisions concerning approvals and permits for clear cutting of forested lands and/or the removal or harvesting of trees within specified time periods. This Local

Law suspends and stays the running of time periods for processing, action upon, holding hearings on, making decisions and taking action on such applications provided for in those laws.

This Local Law supersedes any inconsistent provisions of N.Y. Town Law §§267, 267-a, 267-b and 267-c, and Article VII, §250-98 of the Town of Clinton Town Code relating to the authority to grant variances, waivers or other relief from the Town Code.

This Local Law supersedes any inconsistent provisions of N.Y. Town Law §274-a and Article VII, §250-95 and §250-96 of the Town of Clinton Town Code which requires that the Planning Board process, review, hold hearings on, and act upon applications for site plans within specified time periods.

This Local Law suspends and stays the running of time periods for processing, review, holding hearings on, making decisions, and taking action on such applications provided for in those laws and is intended to supersede and said inconsistent authority.

Section 6. APPEAL PROCEDURES

- a. The Town Board shall have the authority to vary or waive the application of any provision of this Local Law, in its legislative discretion, upon its determination, that such variance or waiver is required to alleviate an unnecessary hardship affecting a parcel of property. To grant such a request, the Town Board must find that a variance or waiver will not adversely affect the health, safety or welfare of the Town. The Town Board shall take into account the existing land use in the immediate vicinity of the subject property and the impact of the variance or waiver on open space and recreational areas, neighborhood and community character, and natural resources of the Town. The application must comply with all other applicable provisions of the Town of Clinton Town Code.
- b. Any application for a variance or waiver shall be filed with the Town Clerk and shall include a fee of two hundred fifty (\$250.00) dollars for the processing of such application.
- c. All applications for a variance or waiver of this Local Law shall, within five (5) days of receipt by the Town Board, be referred to the Planning Board. The Planning Board shall have forty-five (45) days following receipt of the application to make a recommendation to approve, modify or disapprove a variance or waiver of this Local Law. The failure of the Planning Board to issue a recommendation within 45 days following receipt of the application shall be deemed a recommendation to approve said application. The Planning Board's recommendation shall be transmitted to the Town Board which may conduct a public hearing and make a final decision on the application, with or without conditions.

Section 7. PENALTIES FOR OFFENSES

Any person, firm, or corporation who or which violates this Local Law shall be guilty of a Zoning Violation pursuant to Chapter 137-1 of the Town Code.

Section 8. SEVERABILITY

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudicated by any court of competent jurisdiction to be invalid, the judgment shall not affect the validity of this law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 9. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law.