

Town of Clinton

Town Board

Notice of Public Hearing

PLEASE TAKE NOTICE that the Town of Clinton will hold a Public Hearing on Tuesday, March 10, 2015 at the Town of Clinton Town Hall, 1215 Centre Rd, Rhinebeck (Town of Clinton), New York at 6:25 p.m. Prevailing Time, or as soon thereafter as the matter is reached on the agenda, concerning proposed Local Law No. 2 of 2015, entitled, “Energy Facilities and Systems Moratorium” pursuant to Article 16 of the N. Y. Town Law.

This Local Law will take effect immediately upon filing with the Secretary of State. Complete copies of the proposed Local Law are available at the Town of Clinton Clerk’s Office for inspection during regular business hours.

All interested persons and citizens shall have an opportunity to be heard on said proposals at the date, time and place aforesaid.

Dated: February 10, 2015

By order of the Town of Clinton

Carol Mackin, Town Clerk

Local Law No. 2 of 2015, entitled:

“Energy Facilities and Systems Moratorium”

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

Section 1. PURPOSE

Although the development of sustainable energy systems to capture wind and solar power for residential and commercial use is desirable as a green energy alternative, the Town Board of the Town of Clinton (the “Town Board”) has determined that the placement and location of such facilities is of concern. In particular, ground mounted solar arrays and roof mounted wind generating systems can have a deleterious effect on the visual quality of residential and non-residential neighborhoods. Presently the Town of Clinton (the “Town”) does not separately regulate where wind and solar power facilities may be located, instead treating such facilities as accessory uses to an underlying principal use.

Ill-planned wind and solar power facilities may significantly reduce or impair the visual quality of residential and non-residential areas, and can adversely affect open space lands as well. Decisive measures are needed to protect the quality of the Town's neighborhoods, open space, and natural resources while planning appropriately for wind and solar power facilities.

The Town's existing procedures and laws should have the practical effect of ensuring that new development and redevelopment are in accordance with the Town's planning objectives. The practical reality, however, is that wind and solar power generating facilities are not separately regulated in a manner designed to protect the visual and scenic quality of the Town's residential and non-residential areas. The Town Board therefore finds it necessary to impose a temporary moratorium on the processing and granting of approvals and permits for the siting, and installation of wind power and solar power generating facilities. This action is necessary in order to protect the public health, safety and welfare of Town residents.

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:

- 1) The Town Board, the Planning Board, the Zoning Board of Appeals, and the Building Department shall not accept for review, continue review, hold a hearing make any decision or grant any approval or permit in regard to any application for the installation of wind power or solar power facilities, whether such application was submitted prior to or after the effective date of this law. Any statutory and municipally enacted time periods for processing and making decisions on such application or permit and all aspects of approval are suspended and stayed while this Local Law is in effect;
- 2) For the purpose of this Section, the terms Town Board, Planning Board, Zoning Board of Appeals, and Building Department shall be interpreted to include all Departments, employees and consultants of the Town involved in the review of applications as cited in preceding Paragraphs 1.

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 wind power and solar power generating facilities and systems 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 purpose of the local law, 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, along with copies of such plat or plan showing all required improvements in accordance with the procedures of the Town of Clinton Town Code.
- 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. 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 8. EFFECTIVE DATE

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