

PUBLIC HEARING NOTICE TOWN OF COVERT

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Covert will hold a Public Hearing on August 14, 2017, at 7:00 PM at the Town of Covert Municipal Building, located at 8469 South Main Street, Town of Covert, County of Seneca, and State of New York.

Local Law No. 1 of 2017 A Local Law Imposing a Temporary 1 Year Moratorium on Approvals For Solar Energy Facilities, Wind Energy Facilities and Cellular Communications Towers

Be it enacted by the Town Board of the Town of Covert as follows:

Section 1. Title This Local Law shall be referred to as the "Local Law Imposing a Temporary 1 Year Moratorium on Approvals for Solar Energy Facilities, Wind Energy Facilities and Cellular Communications Towers."

Section 2. Purpose and Intent

Pursuant to the statutory powers vested in the Town of Covert (hereinafter the "Town") to regulate and control land use, and to protect the health, safety and welfare of its residents, the Town Board of the Town of Covert hereby declares a temporary one (1) year moratorium on the establishment or development of any new Solar Energy Facilities, Wind Energy Facilities and Cellular Communications Towers or the enlargement of any existing Solar Energy Facilities, Wind Energy Facilities and Cellular Communications Towers in the Town, or the issuance of any approvals or building permits therefor.

The Town anticipates that there may be an increase in the demand for these types of energy producing or communications facilities in the Town and that it may receive a number of new applications for, and inquiries about, the establishment or enlargement of energy producing or communications activities within the Town.

The question of integrating energy production and communication facilities within the Town's existing pattern of predominately residential and agricultural land use emphasizes the need for suitable siting, land use standards with reference to energy production and communication facilities, consistent with applicable provisions of law.

The Town Board of the Town desires to address, in a careful manner, this integration question on a comprehensive Town-wide basis, rather than on an ad hoc basis, and to adopt Local Law provisions to properly regulate the same.

The Town Board of the Town is now in the process of considering various options relating to this issue. The Town Board of the Town finds and determines that it needs the period time covered by the moratorium imposed herein in order to carefully study the integration issue, draft proposed amendments to the Town Code, make appropriate changes to the draft of the proposed Local Law, schedule and hold the required public hearing on the Local Law, perform an appropriate environmental review of the Local Law, comply with applicable provisions of law, adopt the Local Law, and file a copy of the Local Law (ad adopted) with the Secretary of State of the State of New York.

Section 3. Scope of Controls.

A. During the effective period of this Local Law:

1. The Town Board of the Town shall not grant any approvals that would result in the establishment or development of any new solar or wind energy production or cellular communication facilities or the enlargement of any existing solar or wind energy production or cellular communication facilities within the Town.

2. The Building Code Inspector of the Town shall not issue any building permit or other permit, which would result in the establishment or development of any new solar or wind energy production or cellular communication facilities or the enlargement of any existing solar or wind energy production or cellular communication facilities with the Town.

B. The Town Board of the Town reserves the right to direct the Town Building and Code Inspector to revoke or rescind any Building Permits or Certificates of Occupancy issued in violation of this Local Law.

Section 4. No Consideration of New Applications.

No applications for excavation, construction, development, establishment or enlargement of any solar or wind energy production or cellular communication facilities affected by this Local Law or for approvals for a subdivision, a variance, or other permits relating to solar or wind energy production or cellular communication facilities shall be considered by any board, officer or agency of the Town while the moratorium imposed by this Local Law is in effect.

Section 5. Term.

The moratorium imposed by this Local Law shall be in effect for a period of one (1) year from the effective date of this Local Law. In the event that the Local Law entitled, "A Local Law Amending the Town Code of the Town of Covert, New York (Solar and Wind Energy and Cellular Communications) or a similar local law relating to solar or wind energy or cellular communications facilities is adopted prior to the date that the moratorium imposed by this Local Law expires, then in that event the moratorium imposed by this Local Law shall expire immediately on the date that Town Local Law relating to solar or wind energy production or cellular communication facilities takes effect in accordance with section 27 of the Municipal Home Rule Law.

Section 6. Penalties.

Any person, firm or corporation that shall establish or develop any new solar or wind energy production or cellular communication facilities or enlarge any existing solar or wind energy production or cellular communication facilities in violation of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, regulations of the Town for violations; and

B. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to restore any site work or construction which may have taken place in violation of this Local Law.

Section 7. Validity.

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

Section 8. Hardship.

A. Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board of the Town in writing for a variation 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, or other permit during the period of the moratorium imposed by this Local Law.

B. Procedure. Upon submission of a written application to the Town Clerk by the owner seeking a variation of this Local Law, the Town 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 Town. 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 Town 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 Town Board determines that a property owner will suffer unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary the application of this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

Section 9.

The provisions of this Local Law shall not be applicable to any solar or wind energy project that is designed to provide energy only to the lot on which it is located.

Section 10. Effective Date.

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

PLEASE TAKE FURTHER NOTICE that, at the aforementioned time and place, all interested residents will be afforded an opportunity to submit written and oral comments, or be represented by an agent or in person.

PLEASE TAKE FURTHER NOTICE that said Public Hearing to be followed by the Regular Monthly Meeting of the Town Board.
By Order of the Town Board of the Town of Covert

Colleen R. Freese, Town Clerk

JULY 14, 2017