

WHEREAS, the Town of Chemung enacted Local Law No. 2 of the Year 2023, A Temporary 6-Month Moratorium on Development of Large Scale Solar and Commercial Wind Energy Systems Within the Town of Chemung; and

WHEREAS, the Town of Chemung, as part of its planning in preparation for this potential development in the Town of Chemung, requires additional time to review its current zoning laws and comprehensive plan in relation to said potential development; and

NOW THEREFORE BE IT RESOLVED, that the Town of Chemung, County of Chemung, State of New York hereby refers this proposed Local Law No. 4 of 2023, An Extension of the Temporary 6-Month Moratorium on the Development of Large Scale Solar and Commercial Wind Energy Systems Within the Town of Chemung to the Town of Chemung Planning Board and to the Chemung County Planning Board for review; and

BE IT FURTHER RESOLVED, that the Town of Chemung, County of Chemung, State of New York hereby schedules a public here for the proposed Local Law No. 4 of 2023, An Extension of the Temporary 6-Month Moratorium on the Development of Large Scale Solar and Commercial Wind Energy Systems Within the Town of Chemung for [REDACTED] at 7:00 p.m. or as soon thereafter as can be heard, at the Town of Chemung Town Hall located at 48 Rotary Road Extension, Chemung, New York, 14825 and the said proposed Local Law is reads as follow:

**LOCAL LAW NO. _ OF 2023
AN EXTENSION FO THE TEMPORARY 6-MONTH MORATORIUM ON THE
DEVELOPMENT OF LARGE SCALE SOLAR AND COMMERCIAL WIND
ENERGY SYSTEMS WITHIN THE TOWN OF CHEMUNG.**

Section 1. Title.

This local law shall be known as “Local Law No. 4 of the Year 2023, An Extension of the Temporary 6-Month Moratorium on Development of Large Scale Solar and Commercial Wind Energy Systems Within the Town of Chemung.”

Section 2. Legislative Intent.

- A. It is the intent of this local law to impose an additional **four (4) month** moratorium for any development or installation of large scale solar and commercial wind energy systems which produces energy for offsite sale or consumption as defined herein within the Town of Chemung. The Town imposes this temporary moratorium on the issuance of building permits, special use permits, variances, site plan approvals, or any related review pursuant to a request for such solar and wind energy systems within the Town of Chemung.
- B. The purpose of this moratorium is to allow the Town of Chemung to review its current zoning laws and comprehensive plan related to development for solar energy systems.
- C. In recent years, installation of solar and wind energy systems on properties has become more popular due governmental funding, tax incentives and provider options. The Town recognizes the importance of the use of this alternate clean type of energy and its potential to provide another source of energy use for residents. The Town seeks to preserve and protect the aesthetic and natural resources of the Town and property values while understanding the impact this type of development will have on land use for the overall benefit of the Town.

- D. During the period for this moratorium, the Town Board intends to suspend land use regulations in the Town of Chemung which conflict with the effect and intent of this local law.
- E. The Town Board finds pursuant to 6NYCRR 617.5(c) (30) that the adoption of a moratorium of land development or construction is a Type II action under the New York State Environmental Quality Review Act (“SEQR”) which has been determined to not have a significant impact on the environment.

Section 3. Definitions.

Large Scale Solar Energy System.

Structures, facilities, systems, and/or equipment, or any combination thereof, including but not limited to, solar panels and the associated hardware used to collect, absorb, concentrate or direct solar energy for the purpose of offsite sale or consumption.

Commercial Wind Energy Systems.

Any individual or collection of wind turbine generators designed to convert the kinetic energy of wind into a usable form of electricity and any and all related infrastructure which are designed and intended to produce electricity to be consumed primarily offsite and for commercial purposes.

Section 4. Scope of Controls.

For a period of **four (4) months** from the effective date of this Local Law, the Town Board, Planning Board, Zoning Board of Appeals, and the Code (Zoning) Enforcement Officer shall not permit, accept, process, interpret, deliberate upon or approve any application for the installation or development of Large Scale Solar and Commercial

Wind Energy Systems, as defined herein, except as set forth in Section 5 of this Local Law.

Section 5. Relief from Provisions of This Local Law.

Should any owner of property affected by this local law suffer any unnecessary hardship and seek relief from this moratorium to enable such owner to obtain a permit for activity otherwise prohibited under this moratorium, such owner shall make application to the Town Board. Such request shall be taken under the procedural provisions of the existing Town of Chemung zoning law in relation to appeals and shall be subject to a public hearing before the Town Board in accordance with these same procedures. It shall be within the discretion of the Town Board to grant, in whole or in part, or deny, the application for such relief from terms of this moratorium. It shall be the burden of the applicant for such relief to demonstrate to the satisfaction of the Town Board, upon competent evidence that an unjust result and extraordinary hardship would occur to the applicant, if such relief is not granted, and such showing must demonstrate that the proposed activity for which relief is sought shall be consistent with the reasonable and orderly development of the Town. The unnecessary hardship shall not be the delay in the application process created by this local law.

Section 6. Penalties.

A. Any person, firm, entity, or corporation that shall construct, reconstruct, relocate, enlarge, or alter any building or structure in violation of the provisions of this local law, or otherwise violate any provisions of this local law, shall be guilty of a violation and subject to a fine not less than \$250.00 and not more than \$1,000.00, or imprisonment for a term not to exceed fifteen (15) days, or both. Each day the violation continues shall be a separate offense.

B. A civil action inclusive of injunctive relief in favor of the Town to cease any and all such actions which conflict with this local law and, if necessary, to remove any constructions, improvements, or related items or byproducts which may have taken place in violation of this local law.

Section 7. Enforcement.

This local law shall be enforced by the Code Enforcement Officer of the Town of Chemung.

Section 8. Authority.

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

Section 9. Supersession of the Town Law.

This local law is hereby adopted pursuant to Municipal Home Rules Law § 10. It is the intent of the Town Board, pursuant to Municipal Home Rules Law to supersede the following provisions of the New York State Town Law as it relates to zoning and planning determinations under Town Law § 274-a, § 274-b, § 267-a, § 267-b, § 276, and § 277.

Section 10. Inconsistent Laws.

All laws inconsistent with any provision or provisions of this law are hereby repealed.

Section 11. Severability.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law, or the application thereof to any person, firm, or corporation or circumstance, is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the

clause, sentence, paragraph, subdivision, or part of this local law, or in its application to the person, individual, firm, or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 6. Effective Date.

This local law shall take effect immediately upon filing with the New York State Secretary of State, and shall remain in force and effect for a period of four (4) months from the date of passage.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEMUNG.