



# CHEMUNG COUNTY Planning Commission

400 E Church Street  
Elmira, NY 14902  
www.chemungcountyny.gov.com

## Chemung County Planning Board – Municipal Referral Form

Referring Municipality:  City  Town  Village of

Referring Official:

Title:

Address:

*Do not write in this space*

Referral ID #:  
\_\_\_\_\_

Delivery Date:  
\_\_\_\_\_

Phone Number:

Email:

Referring Body (check appropriate box):  Legislative Body  ZBA  Planning Board

Applicant:

Phone:

Applicant Mailing Address:

Email:

Property Address:

Tax Map Number(s):

Current Zoning District:

### Proposed Action (check all that apply)

- |  |   |
|--|---|
| <input type="checkbox"/> Comprehensive Plan Adoption/Amendment     | <input type="checkbox"/> Special/Conditional Use Permit |
| <input type="checkbox"/> Zoning Text Amendment                     | <input type="checkbox"/> Site Plan Review/Approval      |
| <input type="checkbox"/> Zoning Map Amendment                      | <input type="checkbox"/> Use Variance                   |
| <input type="checkbox"/> Zoning Ordinance/Local Law Adoption       | <input type="checkbox"/> Area Variance                  |
| <input type="checkbox"/> Subdivision Review (§239-N)<br>Moratorium | <input type="checkbox"/> Other (please specify)         |

**Existing use and description of the Proposed Action (attach a detailed narrative if available).**

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**Reason referral is required for the Action (see [Interactive GIS Database](#) for trigger boundaries):**

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**Actions the referring body has taken on the Proposed Action to date (e.g. reviewed, approved, discussed, etc.)**

**Future scheduled meetings of the referring body that will involve the Proposed Action:**

## “Full Statement of Proposed Action” Checklist

As defined in NYS General Municipal Law §239-m (1)(c)

Please make sure you have enclosed the following required information with your referral, as appropriate.  
Please also include any additional materials required by your municipality's non-referral agreement with  
Chemung County.

### For all actions:

- Chemung County Planning Board – [Municipal Referral Form](#)
- All application materials required by local law/ordinance to be considered a “complete application” at the local level
- [Part 1 Environmental Assessment Form](#) (EAF) or Environmental Impact Statement (EIS) for State Environmental Quality Review Act (SEQR) [Type I Action](#) or [Unlisted Action](#). If [Type II Action](#), provide a statement to that effect.
- [Agricultural Data Statement](#), for site plan review, special/conditional use permit, use variances, or subdivision review located in an Agricultural District or within 500 feet of a farm operation located in an Agricultural District, per Ag. Districts Law Article 25AA §305-a, Town Law §283-a, and Village Law §7-739.

### For Proposing or Amending Zoning Ordinances or Local Laws: The above requirements AND

- Complete text of proposed ordinance or local law as well as all existing provisions to be affected
- Zoning Map (if applicable)

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**Submit this form with supporting documentation in PDF format to the Chemung County Planning Department via email at: [planning@chemungcountyny.gov](mailto:planning@chemungcountyny.gov). Completed referrals must be submitted by close of business 12 calendar days prior to the Chemung County Planning Board meeting.**

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*Note: If the completed referral is too large to submit via email, please email this form to [planning@chemungcountyny.gov](mailto:planning@chemungcountyny.gov) and note file size issues in your email body*

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**Each municipality will be required to submit a Report of Final Action to the Chemung County Planning Department within 30 days of taking final action. Additional instructions are available on the Chemung County Planning Department website through the "[Referral Guidance for Chemung County Municipalities, GML§239.](#)"**

## LOCAL LAW #5 FOR THE YEAR 2024

### TOWN OF VETERAN EXTENSION OF THE MORATORIUM ENACTED BY LOCAL LAW #3 “ IMPOSING A MORATORIUM ON TIER 3 SOLAR ENERGY SYSTEM INSTALLATIONS”

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

**Section 1. Enactment, Title and Definitions.** The Town Board of the Town of Veteran does hereby enact the Town of Veteran Moratorium (the “Local Law”) with respect to certain applications, reviews and approvals as may or could arise under the existing Town of Veteran Solar Law (defined below). This Local Law shall impose a moratorium on applications or proceedings for applications for, the review of applications for, or the issuance of approvals or permits for the construction of any Tier 3 Solar Energy Systems within the Town of Veteran. This Local Law shall be known and may be cited as **Extension of Moratorium enacted by Local Law #3** of 2024 of the Town of Veteran and is entitled the “**Extension of the Moratorium Enacted by Local Law #3 Imposing a Moratorium of Tier 3 Solar Energy System installations**”. The capitalized terms in the foregoing sentence, and as used throughout this Local Law, shall have the meanings set forth in the Solar Law and the Town of Veteran Zoning Law, unless otherwise defined below:

Solar Law shall mean the Town of Veteran Local Law #2 of 2019, and including all amendments thereto.

Zoning Law shall mean the Town of Veteran Local Law #2 of 2021, Town of Veteran Zoning Law, including all amendments thereto.

Town shall mean the Town of Veteran, NY.

Applicant- All landowners and all those claiming through or on behalf of the owner(s), whether by license, lease, easement, contract, or by owner's designation as an agent for purposes of making any application or any land use review or approval, whether for a permit or otherwise.

Person – Any individual person as well as natural and legal entities.

**Section 2. Authorization, Purpose and Intent.** Pursuant to the authority and provisions of the New York State Constitution, and Section 10 and 22 of the Municipal Home Rule Law, and the statutory powers vested in the Town of Veteran to

- (i) regulate and control land use;
- (ii) (ii) regulate and administer the administration of local taxes and assessments, and the fixing, levying and collecting of local rental charges and fees; and

- (iii) (iii) protect the health, safety and welfare of its residents.

The Town Board (the “Board”) of the Town of Veteran hereby declares a six (6) month moratorium on applications or proceedings for applications for, the review of applications, or the issuance of approvals or permits for the construction of Tier 3 Solar Energy Systems within the Town. This moratorium will allow time to carefully review the Town’s Comprehensive Plan and for Town officials to review, clarify, amend, and update the Town’s Solar Law for commercial solar and energy storage development, including researching the impact of New York State’s Real Property Law §487 and investigating what options are available to the Town to enhance its revenues from such developments through the use of tax levies, payment-in-lieu-of-taxes agreements, host community agreements or any other means available by law. Additionally, this moratorium will allow the Town to address ambiguities in the Solar Law regarding the administration and oversight of decommissioning of Tier 3 Solar Energy Systems. It will also allow the Town to adopt such other regulations as may be necessary to protect the Town’s fiscal health and its environment and to promote and preserve the health, safety and welfare of the Town and its citizens.

**Section 3. Scope of Controls.** During the effective period of this Local Law: A. Neither the Town Board nor the Planning Board shall conduct any review or consider or grant any special permit or other approval that will result in the approval, establishment or construction of any Tier 3 Solar Energy System within the Town. B. To the extent permitted by law, this moratorium shall supersede all relevant provisions of the New York State Town Law, the New York State Building Code, any relevant Town local law and any other applicable law, rule or regulation, that may be in conflict herewith. If any ambiguity or conflict exists, this local law shall govern and the presumption shall in each case be that the moratorium is in effect.

**Section 4. No Consideration of New, Revised, or Renewal Applications.** No new, revised, or renewal applications shall be accepted for filing, review, or consideration, and no site plans, authorizations, special permits, permits, building permits, variances, waivers or other approvals that purport to allow or advance the development, siting, or construction of any Tier 3 Solar Energy System shall be undertaken, reviewed, considered or issued by any board, officer, employee or agent of the Town, except as specifically set forth in Section 10 of this Local Law. Nor shall any language or term in this moratorium effect, or be construed to result in, any default approval, and any matter now pending shall be stayed in place during the pendency of this moratorium, with all deadlines or other timelines suspended for the same number of days that this moratorium is in effect.

**Section 5. Term.** The moratorium imposed by this Local Law shall be in effect for a period of six (6) months from the effective date of this Local Law. **This extension is intended to prevent any lapse in the moratorium provision, ensuring continuous protection while the Town Board finalizes its review and potential amendments to the relevant regulations.** This moratorium may be extended, or rescinded or removed, by local law. During the period of this moratorium the Town shall endeavor to: A. Research the impact of New York State’s Real Property Law §487, investigate what options are available to the Town to enhance its revenues from such developments through the use of tax levies, payment-in-lieu-of-taxes agreements, host

community agreements or any other means available by law and recommend changes to the Solar Law to address such issues, and B. Make recommended changes to the Solar Law and/or other laws to address ambiguities in the Solar Law regarding the administration and oversight of decommissioning of Tier 3 Solar Energy Systems.

**Section 6. Location.** The moratorium imposed by this Local Law shall apply to the territorial limits of the Town of Veteran. Any dispute as to whether a property is encompassed within the geographic area detailed above shall be resolved by reference to the Chemung County Department of Real Property Services and the official New York corporate boundary maps for the Town of Veteran.

**Section 7. Penalties.** The following provisions shall apply generally, and the violation of this Local Law shall allow and permit enforcement in any one or more of the following manners:

- A. When any term, provision, or requirement of this Local Law is violated the Code Enforcement Officer may issue a written notice of violation to the Applicant (or other Person in violation hereof). The notice of violation shall contain:
  - a. the name and address of the Person alleged to have violated this Local Law;
  - b. the address, when available, or a description of the building, structure or parcel upon which the violation occurred or is occurring;
  - c. a brief statement specifying the nature of the violation;
  - d. a statement of the fine or penalty that may or could be assessed against any Person to whom the notice of violation is directed; and
  - e. a clear statement identifying whether the notice commences or may commence a civil or criminal proceeding.

The failure to comply with a written notice of violation by correcting the violation is in itself a separate violation of this Local Law and may be further enforced as such. In addition, Executive Law § 382 may be duly enforced separately from any such notice, and both notices may take the form of a single notice which must, in

addition to the above, contain the information and be served as required by said § 382.

B. The Code Enforcement Officer may issue stop work orders for violations of this Local Law. Any Person receiving a stop work order shall be required to halt all clearing, grading, construction, and any other or related activities, until the Enforcement Officer or a court of competent jurisdiction allows work to recommence.

C. Town may also maintain actions or proceedings in the name of the Town in a court of competent jurisdiction to compel compliance with, restrain by injunction the violation of any provision or requirement of this Local Law, including to prevent, enjoin, correct, enforce, or abate any violation of, or non-conformance with, any provision or requirement of this Local Law or the terms and conditions set forth in any waiver or approval issued hereunder. In any such proceeding the Town shall not be required to:

- a. prove the lack of an adequate remedy at law; or
- b. to post a bond or other undertaking as a condition or requirement for any preliminary, interim, or permanent restraining order or injunction. No such action or proceeding shall be commenced without the appropriate authorization from the Town Board.

D. This Local Law may be enforced civilly or criminally by seeking fines, penalties, and like punishments to deter future violations and sanction offenders. All provisions of New York law and process generally applicable to misdemeanors shall apply to any criminal proceeding brought upon any violations of this Local Law, including for purposes of conferring jurisdiction. The following civil and criminal fines and penalties shall apply to any violation of the requirements or terms of this Local Law:

- a. For a first offense, any Person that violates any of the provisions of this Local Law shall be (i) guilty of a violation and subject to a fine of not less than \$500 nor more than \$1,000, or (ii) subject to a civil penalty of not less than \$500 nor more than \$1,000 to be recovered by the Town in a civil action.

Every such Person shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and be assessable for each week that such violation, disobedience, omission, neglect or refusal shall continue.

b. For a second offense, being any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any violation of this Local Law, a Person shall be (1) guilty of an unclassified misdemeanor and subject to a fine of not less than \$1,000 nor more than \$2,500, or (2) subject to a civil penalty of not less than \$1,000 nor more than \$2,500 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate unclassified misdemeanor for each week that such violation, disobedience, omission, neglect, or refusal shall continue. Similarly, a separate civil penalty shall apply and be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.

c. The above fines are in addition to any penalty, fine, or sentence allowed or imposable pursuant to said Executive Law § 382.

d. Upon any violation of this Local Law by an Applicant or any Person, the Town may, and the Code Enforcement Officer shall, decline and refuse to issue any approvals, endorsements, certifications, building permits, certificates of occupancy, certificates of compliance, and any similar or other document or approval until the Applicant or Person rectifies and cures such violation.

e. Any Person violating this Local Law may be required to restore land to its prior or undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid. In addition, the Town may commence any one or more civil proceedings in the Town Court, or any other court or tribunal of competent jurisdiction, to recover the costs of such restoration.

f. For purposes of this Local Law the Justice Court of the Town is hereby vested and imbued with jurisdiction to: (i) issue administrative or other warrants in compliance with the New York Criminal Procedure Law and administrative codes of the State of New York; and (ii) hear and adjudicate allegations relating to the criminal or civil violation of this Local Law and to thereafter, if appropriate, impose any fine, penalty, or sanction.

g. Criminal matters arising in relation to enforcement matters under this Local Law shall be and be classified as offenses per the following guidelines: (i) first offenses shall be deemed violations; (ii) second offenses shall be deemed unclassified misdemeanors; and (iii) violations of Executive Law § 382 shall be classified as set forth by New York State in such § 382. I. No remedy or penalty specified in this Local Law shall be the exclusive remedy available to the Town to address any violation of, or non-compliance with, the requirements of this Local Law. The rights and remedies of the Town are independent of each other and cumulative. The grant of any right or remedy in this Local Law is in addition to, and not in limitation of or in substitution for any other right or remedy of the Town, whether sounding in law, equity, or admiralty. Further, the election by the Town of any one right or remedy does not forestall or prevent the simultaneous or future election of any other right or remedy, whether relating to enforcement, sentencing, or otherwise.

**Section 8. Exemptions and Non-Conforming Uses.** This moratorium shall not include the installation and use of solar energy systems that have the primary purpose of providing electricity for onsite residential consumption. Notwithstanding any provision hereof to the contrary, any Tier 3 Solar Energy System that has already been issued all necessary approvals or permits from the Town Board or the Planning Board (the “Town Approvals”) may continue such projects and such support activities that are being conducted in the Town as of the effective date of this Local Law, so long as such supporting activities are in all respects being conducted in accordance with all applicable laws and regulations and any conditions of approval, including all Town Approvals. Such limited right to proceed when Town Approvals have been issued shall include the right to apply for and obtain a building permit, so long as the same is or are in conformance with any existing Town Approvals. Any expansion of a lawful, pre-existing, non-conforming use shall not be grandfathered under this Section and instead shall in all respects be prohibited as contemplated by Section 3 hereof. “Grandfathered” and allowed lawful pre-existing uses neither have nor possess any right to expand such non-conforming use whether above or below ground, and no such right shall be deemed, construed, or implied to exist.

**Section 9. Validity.** The invalidity of any word, section, clause, sentence, part or provision of this Local Law shall not affect the validity of any other part or provision of this Local Law that can be given effect without such invalid provision.

**Section 10. Hardship.** The Town Board of the Town is hereby authorized to accept and review (after public notice and public hearing and in accordance with the requirements of law and of this Local Law) written requests for a waiver application of the provisions of this Local Law by persons aggrieved hereby. The Town Board shall have sixty (60) days after conducting the public hearing to make a determination on the requested relief. In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be consistent with review of said application. An application for relief of application of the moratorium shall be accompanied by a fee of \$2,500.00, together with the applicant' s written

undertaking, in a form to be approved by the Town Attorney, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to assist the Town in evaluating and considering the merits of such application. In the alternative to an undertaking, the Town, at its sole discretion, may require the applicant to provide monies (in addition to the \$2,500. 00 fee above) to be held in a non-interest bearing escrow account for the purposes of paying for the expenses anticipated herein. Such initial amount to be paid into escrow shall be determined by the Town Board and the Town Board may require subsequent deposit of additional funds should the initial escrow amount not be adequate to pay for all such expenses. No such waiver shall be granted by the Town Board without a showing by the Applicant that applicable regulations and restrictions have caused unnecessary hardship.

A. Unnecessary Hardship. In order to prove such unnecessary hardship the Applicant is required to demonstrate to the Town Board that, with respect to every permitted use under Town land use, each of the following four criteria is satisfied: (i) the Applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (iii) the requested waiver, if granted, will not alter the essential character of the rural, hamlet, or other neighborhood; and (iv) the alleged hardship has not been self-created.

B. Reasonable Rate of Return. In evaluating whether the Applicant can realize a reasonable rate of return, the Town Board must examine whether the entire original or expanded property holdings of the Applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed development project). No waiver shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Town Board finds that the Applicant has clearly demonstrated by detailed "dollar and cents" proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) and for each and every permitted use in the area of the Town the property is located.

C. Unique Hardship. No waiver shall be granted unless, in addition to satisfying all other applicable provisions of the law and this Local Law, the Town Board finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.

D. Essential Character of the Neighborhood. In making its determination, of whether the proposed development project will alter the essential character of the neighborhood, the Town Board shall take into account factors that are of vital importance to the citizens of the Town including without limitation: (i) the rural residential and agricultural character of the Town, (ii) its irreplaceable recreation, historic, and tourism sites, (iii) the extent of hazard to life, limb or

property may result from the proposed development project, (iv) health impacts, (v) the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances, (vi) the impact on property values, and (viii) whether the Applicant will engage in the type of development that will result in degradation to the air quality, water quality or scenic or other natural resources of the Town. In order to find that the proposed development project does not alter the essential character of the neighborhood, the Board shall interpret the public interest in said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following: (x) pose a threat to the public safety, including public health, water quality or air quality, (y) cause an extraordinary public expense, or (z) create a nuisance.

E. Self-Created Hardship. The Town Board may find that the Applicant suffers from a self-created hardship in the event that the Board finds that (i) the Applicant's inability to obtain a reasonable return on the property as a whole results from having paid too much or from a poor investment decision; (ii) the Applicant previously divided the property and is left with only a portion which suffers from some unique conditions for which relief is sought and which did not apply to the parcel as a whole; (iii) when the Applicant purchased the property, the Applicant knew or should have known the property was subject to the land use restrictions; or (iv) that the Applicant transferred or obtained property rights with only a unilateral expectation of development or return on investment, particularly if the development or project envisioned was speculative or of an investment character, and it shall be material to this question to examine the degree to which the investment in land rights or use rights was partial (such as leasing, easements, or licensure) as opposed to in fee (actual acquisition of fee simple title), and whether the anticipated income, profits, or receipts were conditional, contingent, or guaranteed.

In the event the Town Board grants a waiver from the provisions of this Local Law to the Applicant, the Applicant shall be required to comply with all provisions of the Town's then applicable land use regulations and other laws and regulations, together with any amendments to such law or regulations which may be enacted during the term of this Local Law. Any waiver that is granted shall grant only the minimum waiver that the Town Board deems necessary and adequate to address the unnecessary hardship proven by the Applicant, and at the same time preserve and protect the character of the neighborhood and health, safety, and welfare of the community.

**Section 11. Statutory Authority. Supercession.** This Local Law is promulgated and adopted pursuant to Municipal Home Rule Law and the State Environmental Quality Review Act, and its implementing regulations. It expressly supersedes any provisions of sections 267, 267- a, 267- b, 267- c, 274- a, 274- b and 276 of the Town Law of the State of New York. Furthermore, this Local Law shall supersede the New York State Environmental Conservation Law section 3-0301(1)( b), 3- 0301( 2)( m) and 8- 0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this Local Law. This Local Law shall supersede and suspend those provisions of the Town of Veteran and New York State law which require the Planning Board and the Town

Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

**Section 12. Conflicts.** For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Code provision.

**Section 13. Effective Date.** The effective date of this Local Law shall be immediate upon its filing with the Secretary of State, or upon actual submission of a copy of the adopted local law to any individual, person or applicant.