

Regulation of Solar Farms
Local Law # 2- 2024

Article A: Introduction

Section I. Title

This local Law shall be known as the “Town of Chemung Regulation of Solar Farms Law”

Section II. Purpose

The purpose of this law is to provide a regulatory scheme for the construction and operation of Solar Farms in the Town of Chemung, subject to reasonable restrictions, which will preserve public health, safety and quality of life for its residents.

Section III. Findings

The Town of Chemung finds that solar energy may be an abundant, renewable and nonpolluting energy resource and that its conversion to electricity may reduce the dependence on nonrenewable energy resources. Solar farms may also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the state’s energy supply portfolio.

Section IV. Authority

The Town Board of the Town of Chemung enacts this Local Law under the authority granted by:

1. New York State Constitution Article IX, Section 2(c) (6) and (10).
2. Local Governments Law Section 10(1), (6) and (7).
3. Municipal Home Rule Law Section 10(1) (i) and (ii), 10(1)(a)(6), (11), (12) and (14)

Section V. Interpretation

Where the conditions imposed by any provision of this law, are either more restrictive than comparable conditions imposed by any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

Article B: Definitions

For the purpose of this law, the following words and phrases shall have the meaning ascribed to them in this article. All other words used in this law carry their customary meaning.

Solar Collector - A device, structure, panel, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy. A solar collector system is not intended for off-site electricity transmission.

Solar Farm - The use of land where a series of one (1) or more solar collectors are placed in an area on a parcel of land for the purpose of generating photovoltaic power and said series of one (1) or more solar collectors placed in an area on a parcel of land collectively has a nameplate generation capacity of at least 15 kilowatts (kW) direct current (dc) or more when operating at maximum efficiency. A solar farm is intended for off-site electricity transmission.

Article C: Applicability

The term “Solar Farm” shall not be construed to include, so as to prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electrical for residential, agricultural and farming use property. The term “Solar Farm” shall also not be construed in such a way as to prohibit the installation or mounting of a series of one (1) or more solar collectors as an accessory structure upon the roofs of residential and/or commercial structures regardless of whether the said series of one (1) or more solar collectors collectively has a total nameplate generation of at least 15 kilowatts (kW) direct current (dc) or more when operating at a maximum efficiency. This ordinance shall apply to newly planned and extensions to operations already permitted, and does not apply to any such operations permitted prior to the date of adoption.

Article D: Administration & Application

Solar Farms are allowed in all zoning districts of the Town subject to Conditional/Special Use Permit requirements. Conditional/Special Use Permit application shall contain the following:

- (1) Blueprints or drawings of the solar photovoltaic installation signed by the licensed Professional Engineer showing the proposed layout of the system and any potential shading from nearby structures.
- (2) Certification as to the existing soil classifications for the soil at the proposed development site as provided by the current United States Department of Agriculture Natural Resource Conservation Service Web Soil Survey, or as provided by such other state or local governmental agency maintaining official records of local soil classifications.
- (3) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening, vegetation, or structures. (It is recommended that all surface grading top soil shall remain on sight for the purposes of decommissioning.)
- (4) A description of the solar farm facility and the technical, economic, and other reasons for the proposed location and design shall be prepared and signed by a licensed Professional Engineer.
- (5) Confirmation prepared and signed by licensed Professional Engineer that the Solar Farm complies with all applicable Federal and State standards.
- (6) One of three-line electrical diagram detailing the Solar Farm layout, Solar Collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices.
- (7) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter / transformer.

(8) An operation and maintenance plan which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation and site.

(9) Information on noise (inverter / transformer) and reflectivity/glare of solar panels and identification of potential impacts to adjoining parcels.

(10) Provide an acceptable emergency response plan in advance of the project and before final approval.

(11) A decommissioning plan shall be provided in advance with the Town Board including Cash or Letter of Credit to the value of the project to be determined with the Town Board and subject to revision in 5-year increments to allow for inflation.

(12) Prior to issuance of a Building Permit, the applicant shall provide the Town proof in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of solar or panel or any other part(s) of the generation and solar facility. Continuous insurance coverage shall be in effect until the tower is removed.

(13) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

(14) A Host Community Benefit Agreement, comparable others already in place in the State of New York, must be negotiated and in place prior to any local permit approvals for any such projects with a maximum nameplate of 5 MW or greater.

Article E: Minimum Requirements

In any district requiring a Conditional/Special Use Permit for a Solar Farm, the development shall conform to the following standards which shall be regarded as minimum requirements:

(1) Solar Farms of less than 26 kW shall be on a parcel of not less than five (5) acres, otherwise a minimum of ten (10) acres shall be required.

(2) All ground-mounted panels shall not exceed (12) feet in height at any angle.

(3) All mechanical equipment on a Solar Farm, including any structure for batteries or storage cells, are completely enclosed by a minimum eight (8) foot high fence with a self-locked gate.

(4) The installation of a vegetated perimeter buffer to provide year-round screening of the system from adjacent properties.

(5) Because of neighborhood characteristics and topography, the Planning Board shall examine the proposed location on a case-by-case basis in order to ensure no detrimental impact to Town residents, businesses, or traffic.

(6) All solar energy production systems are designed and located in order to prevent reflective glare toward any habitable buildings, as well as streets and rights-of-way.

(7) All onsite utility and transmission lines are, to the extent feasible, placed underground.

(8) The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

(9) The system shall be designed and situated to be compatible with the existing uses on adjacent and nearby properties.

(10) All solar energy system components shall have a sixty (60) foot setback in the front from the centerline of the highway and sixty (60) foot setbacks from the sides and the back, deviation from which requires an Area Variance by the Zoning Board of Appeals.

(11) Solar modular panels shall not contain hazardous materials.

(12) All appurtenant structures including but not limited to equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be screened from the view of persons not on the parcel.

(13) Lighting of Solar Farms shall be consistent with State and Federal law. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.

(14) A sign is required of no less than 2 ft. x 2 ft. and no greater than 16 sq ft. that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a 24-hour basis to be located on the front entrance. There shall be no other signs except announcement signs, such as "No Trespassing" signs or any signs required to warn of danger.

(15) There shall be a minimum of one (1) parking space to be used in connection with the maintenance of the solar photovoltaic facility and the site. Such parking space shall not be used for the permanent storage of vehicles.

Article F: Additional Conditions.

(1) The Solar Farm owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the Solar Farm shall be clearly marked. The owner and/or operator shall identify a responsible person for public inquiries throughout the life of the installation.

(2) No Solar Farm shall be approved or constructed until evidence has been given to the Town that the utility company that operates the electrical grid where the installation is to be located has been informed of the Solar Farm owner's or operator's intent to install as interconnected customer-owned generator.

(3) A Solar Farm owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, landscaping, vegetation overgrowth control and integrity of security measures. Site access shall be maintained in place to a level acceptable to the local fire chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the Solar Farm and any access road(s), unless accepted as a public way.

(4) Once completed, a solar farm parcel boundary may not be located less than 1,000 feet from any other boundary of any other parcel(s) that contain a year-round residence, without such resident's written approval.

Article G: Decommissioning/Removal

All applications for a Solar Farm shall be accompanied by a Decommissioning Plan to be implemented upon abandonment and/or in conjunction with removal of the installation. Prior to removal of the Solar Farm, a permit for removal activities shall be obtained for the Code Enforcement Officer. The Decommissioning Plan shall include the following provisions:

(1) The owner/operator, or his/her successors in interest shall remove any ground-mounted solar collectors which have reached the end of their useful life or have been abandoned. The owner or operator shall physically remove the installation no more than one hundred fifty (150) days after the date of the proposed date of discontinued operations and plans for removal.

(2) Physical removal of all ground-mounted Solar Collectors, structures, equipment, security barriers, and transmission lines from the site.

(3) Disposal of all solid and hazardous waste in accordance with local, State, and Federal waste disposal regulations.

(4) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to the minimize erosion and disruption to vegetation.

(5) Absent notice of a proposed date of decommissioning and written notice of extenuating circumstances, the Solar Farm shall be considered abandoned when it fails to operate for more than one (1) year without the written consent of the Planning Board. If the owner or operator of the solar farm fails to remove the installation in accordance with the requirements of this section within one hundred fifty (180) days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

(6) Upon the decommissioning of the project and removal of all equipment, the soils as the site shall be restored to the condition and classification that existed prior to the construction of the project.

(7) The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125% of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System. The owner and/or operator shall update security as needed to reflect actual costs.

Article H: Costs of Decommissioning/Removal

If any solar farm that becomes inoperative or nonfunctional for a continuous period of 12 months it shall be considered abandoned. At that point the Town may void any operating or use permits for the facility; and the applicant shall remove the solar facilities, including all solar panels and all accessory

uses and structures, at their expense within 90 days of receipt of notifying the owner of such abandonment. Failure to remove an abandoned system within 90 days shall be grounds for the Town to remove it at the owner's expense. The Code Enforcement Officer may consider and grant a reasonable extension.

If the Town is required to utilize a bond and/or security for removal of the Solar Energy System and restoration of the site and the costs exceed the amount of the bond and/or security, any additional expense shall constitute a lien upon the real property against which costs were charged.

Section 1: Notice of Violation; Issuance of Summons

1. Whenever the enforcement officer determines that there is a violation of any provision of this chapter, he/she shall give notice of such violation to the person, persons or entities responsible therefore under this chapter.
2. Such notice shall be in writing and shall include a concise statement of the reason for the issuance.
3. Such notice shall be deemed to be properly and sufficiently served if a copy thereof is sent by mail to the last known address of the person or entity upon which the same is served, as shown by the most recent tax lists of the municipality or a copy thereof handed to such person or persons, or copy thereof left at the usual place of residence or business of such person or entities.

Section 2: Penalties

1. Any Solar Farm owner who shall violate any of the provisions of this local law shall be guilty of an unclassified misdemeanor and subject to a mandatory fine not to exceed five hundred dollars (\$500.00) for the first violation and one thousand dollars (\$1,000.00) for each offense thereafter. Fines will be issued by and payable to the Town of Chemung.
2. Every person shall be deemed guilty of a separate offense for each day such violation, disobedience, omission, neglect or refusal shall continue.
3. Repeated or unresolved violations of the terms herein, or other terms included within the Special Use Permit, may result in suspension or revocation of the Special Use Permit. The Chemung Town Board will be the arbiter of any such matters.

Article J: Consultancy Fees

Fees for application are those as established by the Chemung Town Board, and it shall be the responsibility of the applicant to reimburse the Town for any and all reasonable and necessary legal, engineering, and other professional fees incurred by the Town in reviewing and administering an application for a Solar Energy System under this law. The application fees shall be established upon resolution of the Town and amended as needed from time to time.

The Town Board and/or Planning Board, in the review of any application pending before it, may refer the application to such engineering, planning, legal, fiscal, accounting, technical or environmental consultant employed by the Town as such Board shall deem reasonably necessary to enable it to review the application as required by law and to observe a project following its initial approval, as during or after construction for inspections and administration.

A. The applicant shall reimburse the Town for the cost of such consultant's services, except for the following:

- 1) Review by the Town engineer of the initial design plans for water, sewage, drainage or roads (public or private) submitted by the applicant.
- 2) Attendance by the Town engineer at one or more meetings prior to the submission of an application for the purpose of discussing the project, identifying applicable rules and regulations, and anticipating technical concerns.
- 3) Preparation by the Town attorney of any required public notices regarding said application.
- 4) Review by the Town engineer and attorney of any environmental assessment form and supporting documents in connection with the determination of environmental significance pursuant to the New York State Environment Quality Review Law. An environmental assessment form does not include an environmental impact statement or the process known as scoping.
- 5) Attendance by the Town engineer and attorney at any regular or special public meetings of the Town Planning Board or the Town Zoning Board of Appeals.
- 6) Consultant's fees incurred in reviewing projects involving Solar Energy Systems.

B. Charges made by consultants who are not regular employees of the Town shall be in accord with charges usually made for such services in the Chemung County, New York region, or pursuant to an existing contractual agreement between the Town and the consultant.

C. In the event that an application is required to be reviewed by more than one board, then to the extent practicable, both boards shall use the same consultant, who shall to the extent practicable, prepare one report providing data, information and recommendations requested. In all cases, duplication of consultants' reports or services shall be avoided wherever practicable in order to reduce the cost of such consultants' reports or services to the applicant.

D. A building permit or other permits, variances, and approvals being sought shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Town.

E. The above charges are in addition to any and all other fees required by any other law, rule or regulation.

Article K: Severability

If any clause, sentence, paragraph, section or article of this local law shall be adjudicated by any court of competent jurisdiction to be invalid such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

This Local Law shall take effect upon filing in the office of the New York State Secretary of Stat

