

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Van Etten

Local Law No. 2 of the year 2023

A local law Establishing a Temporary Moratorium on the Development of Large-Scale Solar Energy
(Insert Title)
Systems and Large-Scale Wind Energy Systems Within the Town of Van Etten

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Van Etten as follows:

SECTION 1 – TITLE.

This local law shall be known and cited as Local Law No. 2 of 2023 of the Town of Van Etten, Chemung County, New York, "A Local Law Establishing a Temporary Moratorium on the Development of Large-Scale Solar Energy Systems and Large-Scale Wind Energy Systems Within the Town of Van Etten."

SECTION 2 – LEGISLATIVE PURPOSE AND INTENT.

This local law is intended to temporarily prohibit the siting or installation of Large-Scale Solar Energy Systems and Large-Scale Wind Energy Systems (as hereinafter defined) within the Town of Van Etten for a period of up to twelve (12) months, pending the further development and adoption of local laws and/or ordinances to regulate and govern the siting and installation of such systems. It is deemed necessary to enact this moratorium in order to permit the Town Board adequate time in which to draft, consider, and adopt additional legislation to allow for the proper siting and development of commercial-scale solar energy and wind energy installations within the Town of Van Etten.

Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted. For these reasons, the Town Board of the Town of Van Etten finds that a temporary moratorium is both

(If additional space is needed, attach pages the same size as this sheet, and number each.)

advisable and necessary for a reasonable and defined period of time in order to allow for the adoption of necessary changes to local law, thus protecting and furthering the public interest, health, and safety.

SECTION 3 – DEFINITIONS.

“Large-Scale Solar Energy Systems” are defined, for the purpose of this local law, as any installation of solar panels or equipment undertaken principally for commercial purposes with an intention of generating electric energy for resale into the power grid by a third party. Any installations by, or undertaken on behalf of, individual landowners, householders, businesses, or farmers, primarily for the purpose of off-setting their own electric energy use shall not be considered Large-Scale Solar Energy Systems and shall be specifically exempted from this moratorium.

“Large-Scale Wind Energy Systems” are defined, for the purpose of this local law, as any individual or collection of wind turbine generators designed to convert the kinetic energy in wind into a usable form of electricity, and any and all related infrastructure, electrical lines, substations, access roads, and accessory structures, which are designed and intended to produce electricity to be consumed primarily off site or for commercial purposes. Any installations by, or undertaken on behalf of, individual landowners, householders, businesses, or farmers, primarily for the purpose of off-setting their own electric energy use shall not be considered Large-Scale Wind Energy Systems and shall be specifically exempted from this moratorium.

SECTION 4 – TEMPORARY MORATORIUM.

There is hereby adopted in the Town of Van Etten a twelve (12) month moratorium on the processing or consideration of applications, and the granting or issuance of permits, approvals, denials, determinations, or interpretations, for or relating to the siting or installation of Large-Scale Solar Energy Systems or Large-Scale Wind Energy Systems.

During the term of this moratorium the Town Board shall endeavor to complete all reasonable and necessary reviews, studies, analyses, and, if warranted, revisions to local laws in order to more effectively regulate Large-Scale Solar Energy Systems and Large-Scale Wind Energy Systems within the Town of Van Etten.

While this moratorium is in effect, no applications shall be accepted or processed, and no permits shall be issued or approvals given, by any board, official, or employee of the Town of Van Etten for or relating to the siting or installation of Large-Scale Solar Energy Systems or Large-Scale Wind Energy Systems within the Town of Van Etten.

This moratorium shall be in effect beginning on the effective date of this local law and shall expire on the earlier of (i) the date that is twelve (12) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating that the Town Board has determined that the need for this moratorium no longer exists.

SECTION 5 – HARDSHIP RELIEF FROM APPLICABILITY OF MORATORIUM.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this local law following a noticed public hearing before the Town Board, at which hearing the Town Board shall consider: (1) the proximity of the applicant’s premises (or the subject of applicant’s request for relief) to natural resources, including but not limited to prime agricultural

soils, streams, rivers, wetland areas, conservation districts, and other environmental concerns; (2) the impact of the proposed application on the applicant's premises and upon the surrounding area; (3) the compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community; (4) the written opinion of the Town of Van Etten Code Enforcement Officer that the applicant's property will be deprived of all reasonable value in the absence of an exemption, or that such application may be jeopardized or made impractical by waiting until the moratorium expires; and (6) such other reasonable considerations and issues as may be raised by the Town Board.

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 the review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner which is unique to the property owner. The unreasonable hardship shall not be the delay in the application process created by this local law.

An application for relief from application of the moratorium shall be accompanied by a fee of \$1,000.00, together with the applicant's written undertaking to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application.

SECTION 6 – PENALTIES.

Any person, partnership, corporation, or other legal entity 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 hereof, shall be guilty of a violation and subject to a fine of 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.

An action or proceeding may be instituted in the name of the Town, in a court of competent jurisdiction, to prevent, restrain, or enjoin any violation of, or to enforce any provision of, this local law.

SECTION 7 – APPLICABILITY.

The provisions of this local law shall apply to all real property situated within the Town of Van Etten and all applications relating to the siting or installation of Large-Scale Solar Energy Systems or Large-Scale Wind Energy Systems within the Town of Van Etten.

SECTION 8 – STATUTORY AUTHORITY; SUPERSESSON.

This local law is adopted pursuant to Municipal Home Rule Law and the State Environmental Quality Review Act and its implementing regulations. To the extent that any law, ordinance, rule, or regulation is in conflict with the provisions of this local law, including all provisions of the Town Law of the State of New York concerning special use permit, site plan, building permit, and certificate of occupancy procedures and requirements, this local law shall control and supersede such law, ordinance, rule, or regulation.

SECTION 9 – SEQRA DETERMINATION.

The Town Board hereby determines that the adoption of this local law is a Type II action under 6 NYCRR 617.5(c)(36) and that environmental review under the New York State Environmental Quality Review Act (SEQRA) is not required.

SECTION 10 – SEVERABILITY.

The invalidity of any word, section, clause, sentence, paragraph, part, or provision of this local law shall not affect the validity of any other part of the law which can be given effect without such invalid part or parts.

SECTION 11 – EFFECTIVE DATE.

This local law shall take effect immediately upon its filing with the Secretary of State in accordance with New York Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2023 of the ~~(County)(City)(Town)(Village)~~ of Van Etten was duly passed by the Town Board of the Town of Van Etten on June 8, 2023, in accordance with the applicable *(Name of Legislative Body)* provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Aileen G. Rose

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: June 20, 2023

(Seal)