

**REGULAR MEETING, PUBLIC HEARING REGARDING LOCAL LAW NO.2 OF 2024**  
**“A LOCAL LAW MODIFYING THE SOLAR ENERGY SYSTEMS LAW”**  
**TOWN OF SHERMAN**  
**JULY 11, 2024**

A regular meeting of the town of Sherman Board was held on at the Town Office Building, 111A Mill St., Sherman, NY, Chautauqua County, New York at 7:00PM.

Present:	Mark D. Persons	Supervisor
	James L. Higginbotham	Council Member/Deputy Supervisor
	Howard E. Crump	Council Member
	Ben Nickerson	Council Member
	Annette Swan	Town Clerk

Absent: Brant Henning and Dennis Sweatman  
Guests: Greg Rater

Supervisor Persons called the meeting to order at 7:00PM and led the Pledge to the flag. He then opened the Public Hearing regarding Local Law No.2 of 2024 “A local Law Modifying the Solar Energy Systems Law”.

TOWN OF SHERMAN  
LOCAL LAW NO. 2 OF 2024

**A LOCAL LAW MODIFYING THE SOLAR ENERGY SYSTEMS LAW**

Be it enacted by the Town of Board of the Town of Sherman, County of Chautauqua and State of New York, as follows:

**SECTION 1. AUTHORITY.**

This local law is promulgated pursuant to the authority granted by:

1. Article IX of the New York State Constitution, §2(c)(10);
2. New York Statute of Local Governments, §10(1) and (7);
3. New York Municipal Home Rule Law, §10(1)(i) and (ii) and §10(1)(a), (11), (12), and (14);
4. New York Town Law §130 (11)(peace, good order and safety), (15)(promotion of public welfare); and
5. New York Town Law §64(17-a)(protection of aesthetic interests), (23)(general powers).

**SECTION 2. PURPOSE.**

The Town Board of the Town Sherman, exercising the authority granted to under the Town Law of the State of New York to protect the health, safety, and welfare of the residents and property owners of the Town of Sherman,

does hereby enact this Section to regulate the construction, maintenance and placement of solar energy systems and equipment in the Town of Sherman. The purpose of this regulation is to balance the potential impact on neighbors when solar collectors may be installed near their property, while preserving the rights of property owners to install solar collection systems without excess regulation. The Town of Sherman recognizes the importance of solar systems in generating electricity for on-premise and off-premise use, the reduction of greenhouse gas emissions and support for emerging solar system economic development. This Local Law is intended to supersede and replace in its entirety Town of Sherman Local Law No. 3 of 2020 and Town of Sherman Local Law No. 2 of 2023.

### SECTION 3. DEFINITIONS.

For purposes of this local law, the following terms shall have the meaning indicated:

**BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV)** - A solar energy system that consists of integrating photovoltaic modules into the building structure. Technologies include PV shingles or tiles, PV

laminates and PV Glass. Examples of placement include vertical facades, semi-transparent skylights,

awnings, fixed awnings and roofs

**GROUND MOUNTED SYSTEMS** - A solar energy system that is anchored to the ground and attached to a

pole or similar mounting system, detached from any other structure.

**LARGE-SCALE SYSTEM** - Solar energy systems used primarily to convert solar energy into electricity for

off-site consumption or sale and/or systems that have the capacity to produce more than 25KW per hour of energy.

**ROOF-MOUNTED SYSTEM** - A solar power system in which solar panels are mounted on top of the

structure of a roof either as a flush mounted system or as modules fixed to frames which can be tilted toward

the sun at an optimal angle. Roof mounted systems shall be located on a roof of a permitted principal use or

accessory structure.

**SMALL-SCALE SOLAR** - Small Scale Solar means a solar energy system that is installed and placed for

the production of energy for consumption only on-site and that has the capacity to produce less than 25KW

per hour of energy.

SOLAR ENERGY EQUIPMENT - Energy storage devices, materials, hardware, or electrical equipment

and conduit associated with the production of electrical energy.

SOLAR ENERGY PRODUCTION FACILITY - Energy Generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or

various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

SOLAR ENERGY SYSTEM - Includes a combination of both solar panels and solar energy equipment.

SOLAR PANEL - A device capable of collecting and converting solar energy into electrical energy.

SOLAR STORAGE BATTERY - A device that stores energy from the sun and makes it available in an electrical form.

#### SECTION 4. APPLICABILITY

A. The requirements of this Section shall apply to all Solar Energy Systems installed or modified after the effective date of the local law by which it was adopted, excluding general maintenance and repair.

B. All Solar Energy Systems shall be designed, erected and installed or modified in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code and the Town Code as well as the National Electrical Code (NEC), National Fire Protection Code 70 (NFPA 70), and local regulations.

C. Under SEQRA regulations, actions are classified as Type I, Type II, or Unlisted Actions. Type II Actions are exempt from review and include actions such as the construction, expansion or placement of minor or accessory structures. The Town of Sherman considers Building-integrated solar components and Small-scale systems to be Type II Actions and therefore exempt from all SEQRA requirements, including the submission of an EAF (Environmental Assessment Form). Large Scale Systems and solar energy production facilities that meet thresholds contained in the SEQRA regulations and are considered more likely than others to have a significant adverse impact shall be considered Type I Actions. However, the need for a complete Environmental Impact Statement (EIS) shall be determined by the permitting board on a case-by-case basis in accordance with the significance of the potential adverse environmental impact.

D. All fees for applications made pursuant to this local law shall be established by resolution of the Town Board.

Nothing herein shall be read to limit the ability of the Town to enter into host community agreements with any applicant to compensate the Town for expenses or Impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required under SEQRA if an EIS is required.

#### SECTION 5. SOLAR AS AN ACCESSORY USE/STRUCTURE.

This section governs the placement and installation of Small-scale Solar systems as defined herein. The installation of Small-scale Solar systems does require the applicant to obtain a building permit from the Town of Sherman.

A. Roof-mounted Systems. Roof-mounted Systems are permitted as an accessory use when attached to a lawfully-permitted principal structure and/or accessory structure, subject to the following requirements:

1. Aesthetics. Solar energy equipment shall incorporate the following design requirements:

a. Solar energy equipment shall be installed outside the primary residence or accessory structure and as close to a public utility electrical meter as possible.

b. Roof-mounted Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.

c. Access and Pathways (NFPA Section 324.7) Roof access, pathways, and spacing requirements for solar photovoltaic systems shall be provided in accordance with NFPA Sections R324.7.1 through R324.7.6

#### EXCEPTIONS:

[1] Roof access, pathways and spacing requirements need not be provided where an alternative ventilation method has been provided, or where vertical ventilation techniques will not be employed.

[2] Detached garages and accessory units.

d. Size of solar photovoltaic array (324.7.1). Each photovoltaic array shall not exceed 150 feet in any direction. (45,720 mm).

e. Roof Access Points (324.1.2). Roof access points shall be located:

[1] In areas that establish access pathways which are independent of each other and as remote from

each other as practicable so as to provide escape routes from all points along the roof.

[2] In areas that do not require the placement of ground ladders over openings such as windows or

doors or areas that may cause congestion or create other hazards.

[3] At strong points of building construction, such as corners, pilasters, hips, and valleys and other

areas capable of supporting the live load from emergency responders.

[4] Where the roof access point does not conflict with overhead obstructions such as tree limbs, wires

or signs.

[5] Where the roof access point does not conflict with ground obstructions such as decks, fences or

landscaping.

[6] In areas that minimize roof tripping hazards such as vents, skylights, satellite dishes, antennas, or

conduit runs.

f. Ground access areas (324.7.3). Ground access areas shall be located directly beneath access roofs and

roof access points. The minimum width of the ground access area shall be the full width of the access

roof or roof access point, measured at the eave. The minimum depth shall allow for the safe placement of ground ladders for gaining entry to the access roof.

g. Single ridge roofs (324.7.4). Panels, modules or arrays installed on roofs with a single ridge shall be

located in a manner that provides two (2), 36 inches wide (914mm) access pathways extending from

the roof access point to the ridge. Access pathways on opposing roof slopes shall not be located along

the same plane as truss, rafter, or other such framing system that supports the pathway

EXCEPTIONS:

[1] Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.

[2] Structures where an access roof fronts a street, driveway or other area readily accessible to emergency responders.

[3] One access pathway shall be required when a roof slope containing panels, modules or arrays is

located not more than 24 inches (610 mm) vertically from an adjoining roof which contains an access roof.

h. Hip roofs (324.7.5). Panels, modules and arrays installed on dwellings with hip roofs shall be located

in a manner that provides a clear access pathway not less than 36 inches (914mm), extending from the

roof access point to the ridge or peak, on each roof slope where panels, modules or arrays are located.

EXCEPTIONS:

[1] Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.

[2] Structures where an access roof fronts a street, driveway or other area readily accessible to

emergency responders

[i] Roofs with valleys (324.7.6), Panels and modules shall not be located less than 18 inches (457 mm) from a valley.

EXCEPTIONS:

[a] Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.

[ii] Allowance for smoke ventilation operations (324.7.7). Panels and modules shall not be located less than 18 inches (457 mm) from a ridge or peak.

EXCEPTIONS:

[a] Where an alternative ventilation method has been provided or where vertical ventilation methods will not be employed between the uppermost portion of the solar photovoltaic system and the roof ridge or peak.

[b] Detached garages and accessory structures.

## B. Ground Mounted Systems.

1. All ground mounted solar panels shall be installed in the rear yard.

2. Setback(s). The setback from any property line shall be 75 feet. If the applicant controls multiple, contiguous parcels, only the exterior boundary of the aggregated parcels shall be considered the "property line" for purposes of determining setbacks.

3. Height. The maximum height of a ground-mounted solar energy system shall be 15 feet as measured from the finished grade. All height measurements are to be calculated when the solar energy system is oriented at maximum tilt.

4. Lot Coverage. The surface area of ground mounted solar panels shall be included in lot coverage and impervious surface calculations and shall not exceed thirty percent (30%) of the lot size.

5. Other:

a. Any application for installation and placement of small-scale solar energy system under this section in a side yard location shall require an application containing a site plan showing the location of all solar energy system components, their location on the premises, their location on the premises in relation to the property line and any and all structures on the premises, and the nearest structure located on the premises adjacent thereto.

C. Notification to the Fire Service. Notification in writing to the Fire Department having operational authority at the location where the system will be installed shall be made no later than ten (10) days following installation:

1. Notification shall include a site map showing the location of the solar energy electrical panel, as well as the proper operation of the disconnect switch(s) in the event of a fire or other emergency situation where the homeowner, tenant or other personnel is not available or familiar with the safe shut down operation of the unit so as to have the ability to cut power from the solar panels.

2. In addition, a proper written statement showing the method of shut down shall be posted inside the main electrical panel of the unit which can be readily accessible for and to firefighting personnel.

#### SECTION 6. SOLAR AS PRINCIPAL USE.

A. Large Scale Solar Systems are permitted by the issuance of a Special Permit issued by the Town Board, subject to the requirements set forth in this section.

1. Every application for a Large-Scale System within the Town of Sherman shall be made to the Town Board and shall be approved by a majority vote thereof.

2. The Town Board shall hold a public hearing upon ten (10) days notice duly posted and published in the official newspaper of the Town and on the Town bulletin board, before granting the Special Permit.

B. Restrictions.

1. Large Scale Solar Systems shall not be located in the following areas:

- a. Within 1000 feet of Routes 430 and 76.
- b. In areas with slopes greater than ten percent (10%).
- c. Within 500 feet of French Creek.

C. Special Permit Application Requirements. Every application for a Special Permit under this section shall contain the following information:

1. A completed State Environmental Quality Review Act (SEQRA) form (typically a FEAF).
2. Verification of utility notification. Foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.
3. Name, address, and contact information of the applicant, property owner(s) and agent submitting the proposed project application.
4. If the property of the proposed project is to be leased, legal consent among all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements.
5. Technical drawings signed by a NYS Professional Engineer, showing the layout of the proposed solar energy system, including proposed access roads, landscaping, and screening (see site plan requirements).

6. Equipment specification sheets for all photovoltaic panels, significant components, mounting systems,

and inverters that are to be installed.

7. A property operation and maintenance plan describing continuing photovoltaic maintenance and property

upkeep, such as mowing, trimming, and maintenance of landscaping, fencing and other screening

components, etc.

8. A decommissioning plan:

a. To ensure the proper removal of large-scale systems, the decommissioning plan shall include details

regarding the removal of all infrastructures and the remediation of soil and vegetation back to its

original state prior to construction, unless otherwise permitted. A cost estimate detailing the projected

cost of executing the decommissioning plan shall be prepared by a Professional Engineer or contractor. Cost estimates shall take inflation into account and not reflect any salvage value. In the case

of a lease, the cost of decommissioning shall be borne by the entity or corporation that is leasing the

property in question and not the landowner.

b. A form of surety, through escrow, bond or the equivalency of, shall be established during the special

use permit process and must be in place prior to the commencement of construction to cover the cost

of decommissioning the site. After completion of the project, the escrow, bond or equivalency of,

shall be renewed on a determined schedule, adjusted for inflation and based on an updated cost

estimates. The amount of surety required shall be a minimum of 125 percent of the estimated cost to

decommission.

9. Stormwater management and erosion and sediment control plan.

10. A lighting plan. Lighting of the solar energy system shall be limited to that minimally required for safety

and operational purposes and shall be reasonably shielded and downcast (dark sky compliant) from

adjacent properties.

11. Information on any noise impacts on surrounding homes or other sensitive receptors. The 1-hour average

noise generated from the solar energy system shall not exceed 45 decibels, as measured from the property



line. If the applicant controls multiple, contiguous parcels, only the exterior boundary of the aggregated parcels shall be considered the “property line” for purposes of measuring noise.

12. An assessment of the visual impacts of the solar energy system (including any above grade poles) on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis must be provided.

Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including, for example, a digital viewshed report, may be required.

13. An economic impact analysis, if the solar energy system meets the definition of a utility-scale system.

The economic impact analysis will be used to determine the effect that the system will have on the

economy of the Town, including factors related to commerce, employment, housing, transportation,

tourism, education, environmental protection, municipal services, revenues, and taxation.

14. An emergency operations plan must be submitted at the time of application. This plan shall address the issues in the Town’s guidance document and any additional items that are requested by

the Zoning Board. The Zoning Board will receive input from emergency service providers and others as

deemed necessary.

If approved, a copy of the approved emergency operations plan shall be given to the system owner, the

local fire department, and local fire code official. A permanent copy shall also be placed in an approved

location to be accessible to facility personnel, fire code officials, and emergency responders.

15. A site plan drawn in sufficient detail as follows:

a. Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposal layout of the entire solar energy system along with a

description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved, and utility lines, both above and below ground, on the site

and adjacent to the site; and

b, A landscape plan signed by a professional Landscape Architect, including the type of planting under

the panels (and a reasoning for its selection); and

c, Property lot lines and the location and dimensions of all existing structures and uses on site within

500 feet of the solar panels, and the zoning of the site and surrounding properties; and

d, Proposed fencing and/or screening for said project.

16. Information on the equipment to be installed, including the requirement that the system components not contain any hazardous substances.
17. Information on the environmental and cultural resources (as identified through the NYSDEC Mapping system and by the Town of Sherman on the subject property and surrounding properties.
18. Elevations showing the front and side view of all components of the solar energy system (panels, inverters, interconnection poles, etc.).
19. If such components are available, a statement signed by the appropriate corporate officer of the Applicant averring that all solar panels to be used in the project will be manufactured within the United States.
20. Information on soils, lot coverage, etc. illustrating how the project meets the requirements of this law.
21. Any such additional information as may be required by the Town's professional engineer or consultant, Town of Sherman Zoning Board of Appeals, Town Board, Town Attorney, or Code Enforcement Officer.

#### D. Special Permit Standards

1. Setback(s): All large-scale solar energy systems shall be set back a minimum of 300 feet from any property line and a minimum of 500 feet from any water well, residential building, school, place of public worship, or designated historic district or landmark. If the applicant controls multiple, contiguous parcels, only the exterior boundary of the aggregated parcels shall be considered the "property line" for purposes of determining setbacks.
2. All large-scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs shall be placed on the entrance and perimeter of the fencing. The height and type of fencing shall be determined by the Special Permit process.
3. All large-scale solar energy systems shall have views minimized from adjacent properties and roadways using landscaping that shall, at a minimum, be comprised of evergreen/coniferous trees, at least eight (8) to ten (10) feet in height at the time of planting (depending on site conditions and the results of the visual impact assessment) and at the recommended spacing for the tree species. These trees may need to be planted

in a staggered, “zig-zag” pattern to maximize screening. Supplemental deer-resistant shrubs are to be planted between the evergreen/coniferous trees at the reasonable discretion of the Town Board. Use of multiple species is encouraged to prevent disease and contribute to a more naturalistic aesthetic. In some cases, existing vegetation located on participated properties may be used to satisfy all or a portion of the required landscaped screening. Berms can also be utilized to reduce the heights of proposed plantings, but the berms must not interfere with site drainage and must be properly designed to maintain vegetation.

Suitable tree and shrub species are to be determined by a professional arborist and approved by the Town.

All plantings shall be maintained in accordance with the approved property operation and maintenance plan and must be replaced if dead or diseased for the life of the permit.

4. On-site electrical interconnection lines and distribution lines shall be placed underground, unless otherwise required by the utility. For poles that are required, they must be placed a minimum of 100 feet from an adjoining property line.

5. The removal of trees six (6) inches or more in diameter at breast height shall not exceed 10% of the project area, or five acres, whichever is less. The removal of shrubs, underbrush, and trees under three (3) inches in diameter at breast height shall be limited to the extent necessary for the construction and maintenance of the solar installation. Plans submitted should clearly indicate tree locations and those to be removed.

6. The height of a large-scale solar energy system shall not exceed 20 feet when oriented at maximum tilt.

Heights up to 30 feet would be allowed for projects that will have farming under the panels.

7. A large-scale solar energy system shall not be permitted on any parcel that contains 50% or more land classified as prime farmland or farmland of statewide importance by the U.S. Department of Agriculture.

8. All components of a large-scale solar energy system shall not contain any hazardous materials that could contaminate soils or the air by their release, including but not limited to lead, cadmium, and PFAS substances. Proof of such shall be submitted at time of application and at time of building permit

application. Any proposed changes to the system components including the addition of any anti-glare materials after construction will require coordination with the Town's Building Department and may require return to the Town Board for evaluation of the SUP.

9 Access roads must meet applicable NYSDEC requirements for limited use pervious access roads and provide adequate access for emergency vehicles (H2O loading; sufficient width, turnarounds, and/or pull-offs). This includes extending access roads to allow emergency responders to respond to medical emergencies or fires throughout the site. The applicant must provide written documentation that the applicable emergency service providers have reviewed and approved the type and location of the proposed access roads.

E. Maintenance and procedures:

1. Time limit on completion: Upon the granting of a special use permit for a large-scale or utility-scale solar energy system, the building permit shall be obtained within twelve (12) months and the project shall be completed within twenty-four (24) months of the granting of the special use permit. If not constructed, the special use permit and site plan approval and building permit shall require new review and approval.

2, Inspections: Upon reasonable notice, the Town of Sherman Building Inspector or his or her designee may enter a lot on which a solar energy system has been approved for the purpose of ensuring compliance with any requirements or conditions. Twenty-four hours' advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. The applicant/operator shall authorize and cooperate in such inspection. Furthermore, a large scale or utility-scale solar energy system shall be inspected annually or at any other time deemed necessary by the Town of Sherman's Building Inspector by a New-York-State-licensed professional engineer that has been approved by the Town. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.

3. General complaint process: During construction, the Town Building Inspector can issue a stop order at

any time for any violations of the special use permit or building permit. After construction is complete, the permit holder of a large scale or utility-scale solar energy system shall establish a contact person, including name and phone number, for receipt of any complaint concerning any permit requirements.

4. Continued operation: A solar energy system shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all approval requirements and conditions. Further, the Building Inspector shall also have the right to request documentation from the owner of a solar energy system regarding the system usage at any time.

5. Annual report: The owner and/or operator of a large-scale or utility-scale solar energy system must submit to the Town's code enforcement officer a yearly report, due no later than February 15, which is certified as accurate and complete under penalty of perjury and contains the following information:

- a. The rated capacity of the system;
- b. The amount of electricity generated by the system in the most recent twelve-month period;
- c. The amount of electricity transmitted to the power grid in the most recent twelve-month period; and
- d. Any damage that has occurred to the system in the most recent twelve-month period, evidence that the damage was repaired (if damage has occurred), and testing of groundwater or wells (if damage has occurred) and the findings of that testing; and
- e. Any updates or maintenance performed to solar energy system components in the most recent twelve-month period and potential plans for such in the coming year.

6. Removal. All solar energy systems shall be dismantled and removed by the owner/operator immediately from a lot when the special use permit or approval has been revoked by the Town of Sherman Town Board or the solar energy system has been deemed to be non-operating or abandoned by the Building Inspector for a period of more than 365 days at the cost of the owner. If the owner/operator does not dismantle and remove said solar energy system as required, the Town Board may, after a hearing at which

the owner shall be given an opportunity to be heard and present evidence, dismantle and remove said

facility and utilize the Bond to remove the solar energy system in accordance with the decommissioning plan.

Such action shall be in addition to and not in lieu of any other enforcement remedies the Town may have.

7. Determination of abandonment or non-operation: A determination of the abandonment or non-operation

of a solar energy system shall be made by the Town Building Inspector, who shall provide the owner/operator with written notice by personal service or certified mail at the address shown in the records of

the Town or the application. Any appeal by the owner of the Building Inspectors determination of

abandonment or inoperability shall be filed with the Town of Sherman Town Board within 30 days of the Building Inspector causing personal service or mailing certified mail of his written determination and the Board shall hold a hearing on same. The filing of an appeal does not stay the

following time frame unless the Town Board or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the 366 days from the date of determination of abandonment or inoperability without re-activation approved or upon completion of dismantling and

removal, any approvals for the solar energy system shall automatically expire.

#### F. Solar Storage Batteries.

1. If solar storage batteries are included as part of the Solar Energy Collection system, they must be placed

in a secure container or enclosure meeting the requirements of the New York State Building Code. All

solar storage batteries, their maintenance, placement, and location shall also comply with all applicable

rules and regulations as promulgated by New York State Building Code and the National Electric Code.

2. When batteries are no longer in use, they shall be disposed of in accordance with the laws of the State of

New York and any applicable Federal or Local disposal rules or regulations.

#### G. Ownership Changes.

If the owner of the solar energy system changes or the owner of the property changes, the special use permit

shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations

of the special use permit, site plan approval, and decommissioning plan. It shall be assumed that an ownership

change requiring notification has occurred if any entity or person acquires more than a 50% membership

interest in the project-specific LLC established to own and operate the project. A new owner or operator of the solar energy system shall notify the Code Enforcement Officer of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the Code Enforcement Officer in writing. The special use permit and all other local approvals for the solar energy system would be void if a new owner or operator fails to provide written notification to the Code Enforcement Officer in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications.

#### H. Waiver Relief.

The Town Board recognizes that no regulation can anticipate every creative plan that may be devised, which, though not in strict compliance with the provisions of this article, nevertheless, is not objectionable.

Accordingly, the Town Board is hereby empowered to grant relief to an applicant from the strict application of this Section where the applicant provides sufficient grounds for a finding that the proposal comports

as much as feasible with the spirit and letter of this Section and, though not in strict compliance therewith, remains aesthetically pleasing, protects neighboring properties, and preserves property values within the Town of Sherman.

#### H. Reimbursement of Fees and Expenses.

1. An Applicant shall reimburse the Town for any fee or expense incurred in hiring subject matter experts and attorneys to review whether a Solar Energy System proposed for siting pursuant to Article 10 of the New York Public Service Law or Article 94-c of the Executive Law complies with the substantive provision of this local law.
2. The applicable fees for any review or permit required by this local law shall be set from time to time by resolution of the Town Board.
3. An Applicant for either state or local siting approval shall deliver to the Town Board, along with its application, if local approval is sought, or one-hundred eighty (180) days prior to the filing of an article 10 or Article 94-C application, if applicable, an amount equal to one percent (1%) of the estimated cost of

the project (the "Initial Deposit"). This sum shall be held by the Town in a non-interest bearing account and shall be available to the Town to pay consultants and attorneys engaged by the Town to assist in its review of and preparation for an Article 10 or Article 94-c application. Should the Town be awarded intervenor funds, it shall switch to and deplete those funds before making further use of the Initial Deposit. Following the approval or denial of the state or local application, the Town shall return to the Applicant any excess funds remaining in escrow. If the escrow account has been depleted prior to approval or denial of the application, the Applicant shall deposit such funds necessary for the Town to pay any outstanding consulting fees.

I. Host Community Agreement & PILOT Agreement.

Prior to the issuance of a building permit for any Large-scale Solar Energy System, the Applicant for such

system shall enter into a Host Community Agreement with the Town of Sherman, which shall:

1. Contractually obligate the Applicant to comply with any terms and conditions of any special use permit

approval of the Town Board;

2. Provide for payment by the Applicant to the Town of an impact fee to be used and applied by the Town to

pay for and/or offset the costs and impacts incurred by and/or arising due to the development and/or

operation of the Large-scale Solar Energy System. The amount of such impact fee shall be established by

the Town Board by resolution adopted from time to time, based upon the amount of energy produced by

the project and such other factors as the Board shall determine;

3. Provide for such other contractual requirements as may be necessary given the specific elements of a

particular project; and

4. If the Applicant and/or owner of the project shall enter into a payment-in-lieu-of-taxes (PILOT)

agreement with the Chautauqua County Industrial Development Agency, the Host Community Agreement

shall be cross-defaulted with the agreements between the Applicant and/or owner and the Chautauqua

County Industrial Development Agency.

5. The final terms of any such PILOT agreement shall be determined by the Town and its Assessor in the



exercise of their sound discretion in consideration of such factors as the size and capacity of such solar facility and shall require annual payments in an amount not to exceed the amount which would otherwise be payable but for the exemption provided pursuant to RPTL § 487 for a period of not more than 15 years

commencing from the date on which the benefits of such exemption first becomes available and effective.

The Town reserves the right to reject any such proposed PILOT for any reason.

#### SECTION 7. ENFORCEMENT.

A. Any violation of any provisions of this local law shall be punishable by penalty or a term of imprisonment as

prescribed in Section 268 of the Town Law of the State of New York.

B. Notwithstanding the above, the Town Board of the Town of Sherman hereby reserves the right to proceed to

enforce the provisions of this section by civil action, injunction, and any other remedy afforded to it by the

laws of the State of New York or the United States.

#### SECTION 8. VALIDITY AND SEVERABILITY.

If any part or provision of this Local Law shall be declared invalid, void, unconstitutional or unenforceable by a

court of law, all unaffected provisions hereof shall survive such declaration and this Local Law shall remain in

full force and effect as if the invalidated portion had not been enacted.

#### SECTION 9. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.

- Town resident, Greg Rater asked questions regarding future solar fields and their proximity to French Creek. Supervisor Persons replied that Local Law No.2 of 2024 does state that "Large scale solar systems shall not be located within 500 feet of French Creek". After further discussion and no other questions:

#### **RESOLUTION # 24**

Councilman Jim Higginbotham made the motion seconded by Councilman Howard Crump to close the Public Hearing.

AYES: 3

NAYES: 0

MOTION CARRIED

#### **RESOLUTION #25**

##### **APPROVAL OF MINUTES**

Councilman Howard Crump made a motion, seconded by Councilman Ben Nickerson to approve the minutes form the June 6, 2024 regular board meeting.

AYES: 3          NAYES: 0          MOTION CARRIED

**RESOLUTION #26**

**ABSTRACTS/CLAIMS**

Councilman Jim Higginbotham made a motion, seconded by Ben Nickerson to approve payment of General Claims #89 thru #106 in the amount of \$4,530.43, Highway Claims #64 thru #79 in the amount of \$245,497.17

AYES: 3          NAYES: 0          MOTION CARRIED

**JUDGE'S REPORT- No Report**

**CLERK/REGISTRAR'S REPORT**

For the month of June, we had 4 marriage Licenses which totaled \$160.00. The town portion is \$70.00

14 dog licenses in which our share is \$168.00. For a combined town portion total of \$238.00.

11 fishing licenses were sold for a total of \$255.00. The town portion was \$14.08.

Town Clerk Swan attended a Town Clerk Association luncheon in Mayville on June 26<sup>th</sup>. She was able to meet several other clerks in the area. Many of them offered their help to Clerk Swan as she is learning the ropes of her new appointment.

**ASSESSOR'S REPORT- no report**

**CODE ENFORCEMENT -no report**

**HIGHWAY SUPERINTENDENT-no report**

**SUPERVISOR REPORT**

- Chautauqua County requires all townships adopt a resolution for the Multi-Jurisdictional Hazard Mitigation Plan in order to be eligible for FEMA mitigation grants.

A RESOLUTION OF THE TOWN OF SHERMAN ADOPTING THE CHAUTAUQUA COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN, DATED JUNE 7, 2024

WHEREAS the Town of Sherman recognizes the threat that natural hazards post to people and property within the Town of Sherman; and

WHEREAS the Town of Sherman has prepared a multi-hazard mitigation plan, hereby known as the Chautauqua County Multi-Jurisdictional Hazard Mitigation Plan, dated June 7, 2024, in accordance with the Disaster Mitigation Act of 2000; and

WHEREAS the Chautauqua County Multi-Jurisdictional Hazard Mitigation Plan, date June 7,2024, identifies mitigation goals and actions to reduce or eliminate long-term risk to people and property in the Town of Sherman from the impacts of future hazards and disasters; and

WHEREAS ADOPTION BY THE Town of Sherman demonstrates their commitment to hazard mitigation and achieving the goals outlined in the Chautauqua County Multi-Jurisdictional Hazard Mitigation Plan, dated June 7,2024.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN OF SHERMAN THAT:

Section 1. The Town of Sherman adopts the Chautauqua County Multi-Jurisdictional Hazard Mitigation Plan, dated June 7, 2024. This plan, approved by the community, may be edited or amended after submission for review, but will not require the community to re-adopt any further iterations. This only applies to this specific plan and does not absolve the community from updating the plan in 5 years.

**RESOLUTION # 27**

Councilman Ben Nickerson made a motion, seconded by Councilman Howard Crump to adopt the Chautauqua County Multi-Jurisdictional Hazard Mitigation Plan for the Town of Sherman.

AYES: 3            NAYES: 0            MOTION CARRIED

- Supervisor Persons said that highway superintendent Dennis Sweatman reported to him that there was a homeless person living in the Sherman Cemetery off of Route 430. Superintendent Sweatman said that he had reported it to the Sheriffs Department. Supervisor Persons said he would also contact the Sheriff’s Department and ask if they could periodically drive thru the cemetery and look for any suspicious activity. Supervisor Persons also suggested to the board that a security camera or extra signage might be needed at a later date.
- Supervisor Persons had a phone call conversation with Chautauqua County Sheriff James Quattrone about animal control in the county. Sheriff Quattrone stated that he is going to put in his budget for 2025 a county wide animal control officer. This may help the local town control officers with some of the burden for dealing with dangerous dogs.
- The following resolution was presented to the board members:  
WEAREAS, in order to meet its arbitrary green energy goals, the State of New York is pushing the exploration of the feasibility of installing wind turbines in Lake Erie off to Chautauqua County and our neighboring counties, and

WEAREAS, wind turbines in Lake Erie would be detrimental to the area in several ways, including (a) the release of pollutants into the waters of Lake Erie, which is a source of

clean drinking water for many of our neighbors; (b) the negative impact on migratory birds, causing death to birds that make a home along Lake Erie during different seasons of the year; and (c) the eyesore effect along our picturesque shoreline,

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Sherman Town Board opposes the construction of offshore wind turbines in the waters of Lake Erie.

### **RESOLUTION # 28**

A motion was made by Councilman Howard Crump, seconded by Councilman Jim Higginbotham to adopt a resolution for the Town of Sherman against wind turbines in Lake Erie. This was in response to the presentation at the June 6, 2024 board meeting by members of CAWTILE (Citizens Against Wind Turbines).

AYES: 3      NAYES: 0      MOTION CARRIED

- Supervisor Persons had a zoom meeting with a representative of Community Bank in which they explained services that they offer to municipalities. These services include check fraud protection, a check scanner for tax collection and a credit card. More information needs to be gathered before the board will decide if any of these services are beneficial to the town.
- Supervisor Persons presented to the board, the name of a possible Code Enforcement Officer replacement for the Town of Sherman's current acting Code Enforcement Officer, Dennis Sweatman. His name is Tom McNinch and he is currently the Code Enforcement Officer for the Town of Mina. Mr. McNinch told Supervisor Persons that he would be willing to take over the duties of CEO from Mr. Sweatman starting August 1, 2024.

### **RESOLUTION # 29**

A motion was made by Councilman Jim Higginbotham, seconded by councilman Howard Crump, to appoint Tom McNinch as the Town of Sherman's new Code Enforcement Officer effective August 1, 2024 with a salary of \$455.00/month and mileage.

AYES: 3      NAYES: 0      MOTION CARRIED

- FeedMore WNY, who helps supply food to Sherman residents and surrounding areas, sent Supervisor Persons a letter asking if the town board would consider giving the organization \$1000 out of their 2025 budget. The board members were interested, but would like more information. They are going to invite a member of FeedMore WNY to the September meeting.

- Supervisor Persons asked all council members and the town clerk if they would participate in the upcoming Sherman Day parade on August 3. Councilman Jim Higginbotham offered to use his truck for the members to ride in.

**RESOLUTION # 30**

A motion was made by Councilman Howard Crump, seconded by Ben Nickerson to accept **Local Law No. 2 of 2024, A Local Law Modifying the solar Energy Systems Law.**

AYES: 3          NAYES: 0          MOTION CARRIED

- Supervisor Persons announced to the board members that he had a plaque made by TripleE to present to former Town Clerk, Tammy Weise, in appreciation for her 10 years of service. He was presenting the plaque to Mrs. Weise the following day and invited all board members to attend, if they wished to do so. Supervisor Persons also passed around a card for each board member to sign, that would be given to Mrs. Weise.
- Heather Young-Deyell, Town of Sherman assessor, reported to Supervisor Persons that she got a 100% equalization rate which entitles her to a \$1200 bonus in which she will be paid with the next payroll.
- Supervisor Persons reminded the board members that a representative from the My Benefit Advisor insurance agency, who provides the employee's insurance, will be at the next scheduled board meeting to discuss changes with the employee insurance.

As there was nothing more to discuss, Councilman Jim Higginbotham made a motion, seconded by Councilman Ben Nickerson, to adjourn the meeting at 7:55 pm.

Respectfully Submitted,

Annette Swan  
Sherman Town Clerk