

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 Village of Sherman

FILED
STATE RECORDS

JUL 19 2021

DEPARTMENT OF STATE

Local Law No. 1 of the year 2021

A local law Amending and Superseding Local Law No. 4 of 2020 whereby the Village of Sherman
(Insert Title)
Regulates Solar Energy Systems.

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

County City Town Village
(Select one.)

of Sherman

as follows:

A new Section 619 hereby supersedes and replaces the original Section 619 of the Village of Sherman Zoning Code, which shall provide as follows:

Section 619 SOLAR ENERGY SYSTEMS

A: PURPOSE:

The Village Board of the Village of Sherman, exercising the authority granted under the Village Law of the State of New York to protect the health, safety, and welfare of the residents and property owners of the Village of Sherman does hereby enact this Section to regulate the construction, maintenance and placement of solar energy systems and equipment in the Village 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 Village 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.

B: DEFINITIONS:

As used in this Section, 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.

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

(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. 1 of 2021 of the (County)(City)(Town)(Village) of Sherman was duly passed by the Village Board of Trustees on July 14th 2021, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 *(Elective Chief Executive Officer*)* 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.

(Signature)

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

Date: 07-15-2021

(Seal)

Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings, and roofs.

COLLECTIVE SOLAR - Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt a solar panel" programs similar arrangements or commercial entities.

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 located on land in the Village of Sherman 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.

NET-METERING - A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.

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 EASEMENT - An easement recorded pursuant to the New York State Real Property Law 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

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.

SOLAR THERMAL SYSTEMS - Solar Thermal Systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

C. APPLICABILITY:

1. 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.
2. 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 Village Code as well as the National Electrical Code (NEC), National Fire Protection Code 70 (NFPA 70), and local regulations.
3. 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 Village 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 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.
4. All fees for applications made pursuant to this local law shall be established by resolution of the Village Board. Nothing herein shall be read to limit the ability of the Village to enter into host community agreements with any applicant to compensate the Village for expenses or Impacts on the community. The Village 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.

D. 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 Village of Sherman.

1. **Roof-mounted Systems.** Roof-mounted Systems are permitted as an accessory use in all zoning districts when attached to a lawfully permitted principle structure and/or accessory structure, subject to the following requirements:
 - a. Height. Solar energy systems shall not exceed maximum height restrictions within any zoning district and are provided the same height exemptions granted to building-mounted mechanical devices and equipment.
 - b. Setback. Solar energy systems are subject to the setback requirements of the underlying zoning district.
 - c. Aesthetics. Solar energy equipment shall incorporate the following design requirements:
 - 1) Solar energy equipment shall be installed outside the primary residence or accessory structure and as close to a public utility electrical meter as possible.

- 2) 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.
- 3) 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:

- (a) 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.
 - (b) Detached garages and accessory units.
- 4) Size of solar photovoltaic array (324.7.1). Each photovoltaic array shall not exceed 150 feet in any direction. (45,720 mm).
 - 5) Roof Access Points (324.1.2). Roof access points shall be located:
 - (a) 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.
 - (b) 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.
 - (c) 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.
 - (d) Where the roof access point does not conflict with overhead obstructions such as tree limbs, wires, or signs.
 - (e) Where the roof access point does not conflict with ground obstructions such as decks, fences, or landscaping.
 - (f) In areas that minimize roof tripping hazards such as vents, skylights, satellite dishes, antennas, or conduit runs.
 - 6) 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.
 - 7) 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:

- (a) Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) and less.
 - (b) Structures where an access roof fronts a street, driveway, or other area readily accessible to emergency responders.
 - (c) 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.
- 8) 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:

- (a) Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.
 - (b) Structures where an access roof fronts a street, driveway, or other area readily accessible to emergency responders
- 9) 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.
- 10) 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.

2. Ground Mounted Systems.

- a. All ground mounted solar panels shall be installed in the rear yard.
- b. All Ground mounted solar energy systems are permitted as an accessory structure in all zoning districts, subject to the requirements set forth in this section.

- c. Setback(s): Ground mounted solar panels are subject to setback requirements of the underlying zoning district.
- d. Height: Solar panels are restricted to a height of fifteen (15) feet when located with a minimum set back distance of ten (10) feet from a lot line; a height of twenty (20) feet when located with a minimum set back distance of fifteen (15) feet from a lot line; and maximum height of twenty-five (25) feet when located with a setback distance of twenty-five (25) feet or greater. All height measurements are to be calculated when the solar energy system is oriented at maximum tilt.
- e. 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.
- f. Other:
 - 1) 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.
 - 2) The site plan for such installation shall be reviewed by the Municipal Zoning Board of the Village of Sherman, and approval of the site plan for the placement in a side yard by affirmative vote of a majority of the Municipal Zoning Board of the Village of Sherman is required.

3. **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:

- a. 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 unit so as to have the ability to cut power from the solar panels.
- b. 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.
- c. Notification shall be sent to the following address:

Stanley Hose Fire Company
122 Park Street
Sherman, NY 14781

E. SOLAR AS PRINCIPAL USE:

1. Large-Scale Solar Systems are permitted by the issuance of a Special Permit by the Village Municipal Zoning Board, subject to the requirements set forth in this section.
 - a. Every application for a large-scale system within the Village of Sherman shall be made to the Village Municipal Zoning Board and shall be approved by a majority vote thereof.
 - b. The Village Municipal Zoning Board shall hold a public hearing upon ten (10) days' notice duly posted and published in the official newspaper of the Village and on the Village bulletin board, before granting the Special Permit.
2. Special Permit Application Requirements. Every application for a Special Permit under this section shall contain the following information:
 - a. Verification of utility notification. Foreseeable infrastructure upgrade shall be documented and submitted. Off-grid systems are exempt from this requirement.
 - b. Name, address, and contact information of the applicant, property owner(s) and agent submitting the proposed project application.
 - c. 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.
 - d. Blueprints showing the layout of the proposed system signed by a Professional Engineer or Registered Architect.
 - e. Equipment specification sheets for all photovoltaic panels, significant components, mounting systems and invertors that are to be installed.
 - f. A property operation and maintenance plan describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, etc.
 - g. Decommissioning Plan:
 - 1) To ensure the proper removal of large-scale systems, the decommissioning plan shall include details regarding the removal of all infrastructures, including the removal of concrete to a depth of four feet, 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. *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.*
 - 2) A form of surety, through escrow, bond, or the equivalency of, shall be established prior to the commencement of construction to cover the cost of decommissioning the site. The amount of surety required may not exceed 125 percent of the estimated cost to decommission.

3. Special Permit Standards

- a. Setbacks(s): All large-scale solar energy systems shall be set back a minimum of 100 feet from any property line and a minimum of 300 feet from any 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.
- b. 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.
- c. On-site electrical interconnection lines and distribution lines shall be placed underground, unless otherwise required by the utility.
- d. The removal of existing vegetation shall be limited to the extent necessary for the construction and maintenance of the solar installation.

4. Solar Storage Batteries

- a. 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.
- b. 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.

F. ENFORCEMENT:

1. Any violations of any provisions of this Section shall be punishable by penalty of \$50.00 per day or a term of imprisonment up to 15 days.
2. Notwithstanding the above, the Village Board of the Village 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 4. VILLAGE EXEMPTION.

A new Article XIV is hereby added to the Village of Sherman Zoning Code, which shall provide as follows:

ARTICLE XIV VILLAGE EXEMPTION

Section 1401 PURPOSE AND INTENT; AUTHORITY

It is the intent of this section to specifically provide for the exemption of Village projects and activities from the Village's Zoning Code. It is adopted pursuant to New York Municipal Home Rule Law.

Section 1402 VILLAGE EXEMPTION

Notwithstanding any other provision of this chapter, any action, including but not limited to site plan review, subdivision approval, planned unit development review, special use permit application, use variance or area variance application, which is proposed or undertaken by the Village of Sherman, or on behalf of the Village with the Village's written authorization, shall be exempt from the provisions of this chapter. Notwithstanding this exemption, the Village Board may seek nonbinding advisory review from the Village Planning Board and/or Zoning Board of Appeals for any such proposed Village action. This exemption specifically does not apply to the provisions of the State Environmental Review Act (SEQRA) or other state or federal requirements but is limited only to requirements of the Village of Sherman.

SECTION 5. 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 6. EFFECTIVE DATE.

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