

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 Sherman

FILED
STATE RECORDS
DEC 30 2022

DEPARTMENT OF STATE

Local Law No. 4 of the year 2022

A local law Amending and Superseding Sections of Local Law No. 1 of 2009 Zoning Law whereby the
(Insert Title)
Village of Sherman Regulates Fences, Walls, and Hedges; Unsafe Structures; Mobile
Food Vendors; Permanent and Semi-Permanent Coverings; and the Application of the
Schedule of Fees and Penalties.

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:

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

SECTION 1. AUTHORITY.

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

- A. Article IX of the New York State Constitution, § 2(c)(10);
- B. New York Statute of Local Governments, § 10(1) and (7);
- C. New York Municipal Home Rule Law, § 10(1)(i) and (ii) and § 10(1)(a), (11), (12), and (14);
- D. New York Village Law Section 4-412.

SECTION 2. PURPOSE.

This local law shall amend the Village of Sherman Zoning Code.

SECTION 3. INTENT.

Amendment of the Village of Sherman Zoning Code as follows:

- A. Add new definitions to Section 202 DEFINITIONS;
- B. A new Section 616 FENCES, WALLS, and HEDGES hereby supersedes and replaces the original Section 616 Fences/Walls;
- C. A new Section 636 UNSAFE STRUCTURES hereby supersedes and replaces the original Section 636 Unsafe Structures;
- D. Insert a new Section 641 MOBILE FOOD VENDORS;
- E. Insert a new Section 642 PERMANENT / SEMI-PERMANENT COVERINGS;

(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. 4 of 2022 of the (County)(City)(Town)(Village) of Sherman was duly passed by the Village Board of Trustees on December 14th, 2022, 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.


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

Date: 12-22-2022

(Seal)



- F. A new Section 702-C FEES, under Duties of the Administration by Enforcement Officer, hereby supersedes and replaces the original Section 702-C Fees;
- G. A new Section 704 SCHEDULE OF FEES hereby supersedes and replaces the original Section 704 Schedule of Fees;
- H. Insert a new Section 705 ADMINISTRATIVE LIABILITY;
- I. A new Section 1202 PENALTIES hereby supersedes and replaces the original Section 1202 Penalties.

SECTION 4. DEFINITIONS.

The following definitions are hereby added to Section 202 Definitions of the Village of Sherman Zoning Code, the following terms shall have the meaning indicated:

ANIMAL – Any species within the Animal Kingdom including but not limited to birds, mammals, and reptiles.

FOOD – Includes foodstuffs or drinks of any kind.

MOBILE FOOD VEHICLE – A self-contained cart, trailer, wagon, or motorized vehicle in which ready-to-eat food is prepared, cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution; or one in which beverages are brewed, blended, chilled, bottled, portioned, poured, or prepared for service, sale, or distribution.

MOBILE FOOD VENDOR – The owner of a mobile food vehicle or the owner’s agent.

SECTION 5. FENCES, WALLS, and HEDGES.

A new Section 616 hereby supersedes and replaces the original Section 616 of the Village of Sherman Zoning Code, which shall provide as follows:

Section 616 FENCES, WALLS, and HEDGES

A. Purpose.

To prevent solid and semi-solid fences, walls, and hedges from materially obscuring vision or shutting out light, sun or air resulting in potentially unsafe or unhealthy conditions for residents, motorists, or pedestrians, while providing a quality of living standard that conforms to the general character of the neighborhood.

B. Building Permit and Fees.

1. A building permit shall be required before any fence or wall may be erected or placed. Applications shall be made with the Village Enforcement Officer for code and zoning. The application shall contain a physical description of the design (drawing) and the material, and a sketch of the location of the proposed fence upon the property.
2. A building permit shall not be required for fences and walls used for agricultural purposes in a Rural Residential District (R2), however the fence must still be erected in accordance with this section of the local law, exempt only from Height and Setback so long as the fence or wall does not materially obscure the vision creating unsafe conditions.

3. A building permit fee or applicable special use permit fee or variance fee shall be established by resolution of the Village Board of Trustees of this Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.

C. Design and Construction.

1. Materials.

- a) Fences and walls must be constructed of permanent, durable materials, such as brick, stone, concrete, textile block, wood, iron, steel, aluminum, PVC, wrought iron, vinyl, or chain-link.
- b) *No solid or tight fence shall be constructed of secondhand or used lumber or used composite material.*
- c) Fence material strictly prohibited in all districts for any use includes barbed wire, concertina wire, razor wire, and tarps.
- d) Except for animal husbandry, stables, and kennel uses, no fence or wall shall be constructed of chicken wire, or electrically charged wire. Electrically charged fences are required to have a pulsating charger or energizer.
- e) This provision of the law excludes underground dog fences; there is no building or special use permit required for an underground fence so long as the fence is within the property lot line and installation is done in accordance with the U-Dig Law (Call 8-1-1).
- f) The fence or wall shall conform to the general character of the neighborhood.

2. Height.

- a) Fencing and walls along the side and rear of lots may have a maximum height of seventy-two (72) inches measured from the average ground level within two (2) feet of the base of the fence or wall. An additional one (1) foot of height is allowed, above the maximum permitted height, for posts, columns, light fixtures, or other decorative details.
- b) Fences and walls along front lot lines or within a front yard must not exceed four (4) feet in height.

3. Setback.

Setback from Sidewalk – Fences and walls shall be set back a minimum of ten (10) feet from the inside (residence side) of the sidewalk. If there is no existing sidewalk, it would be ten (10) feet from where the sidewalk would be as determined by the Village Streets Department Superintendent.

4. Proximity to Neighboring Property.

Fences and walls will be allowed up to property line, with proof of known lot lines.

5. Finished Sides.

- a) The finished sides of all fences must face adjacent properties.
- b) No fence shall be used as advertising, billboard, or poster purposes.

6. Maintenance.

All fences and walls will be maintained structurally and visually.

D. Plants, Trees, Shrubberies, Hedges.

1. **Proximity to neighboring property** – any trees, shrubberies, hedges, or plants used to form a wall or fence may be planted up to the property line. *(However, it is recommended that planting is started no closer than the estimated center of the circumference of the plant at its*

full growth' to the lot line allowing said trees, shrubberies, and plants room to grow.) Refer to NY State Laws related to growth encroaching on neighboring properties.

2. **Setback** for trees, shrubberies, hedges, and plants used to create a wall, barrier, or fence shall be set back a minimum of ten (10) feet from the sidewalk (inside or residence side). If there is no existing sidewalk, it would be ten (10) feet from where the sidewalk would be as determined by the Village Streets Department Superintendent.
3. **Maintenance of shrubberies, hedges, and plants used to create a wall, barrier, or fence** is the owner's responsibility, so they do not become a nuisance or invade neighboring properties.
4. **Maintenance of trees** – refer to NY State Laws related to growth encroaching on neighboring properties.
5. **The height of shrubberies and hedges used to create a wall, barrier, or fence** will be allowed a maximum height of six (6) feet along side, and back lot lines, maximum of four (4) feet in front yards.

E. Temporary and Seasonal Fences.

Temporary and seasonal fences, including but not limited to plastic construction fence (a.k.a. snow fence), require a special use permit.

F. Temporary and Seasonal Markers.

1. **Setback** for temporary or seasonal marker may be placed up to the property line.
2. **Types** of temporary and seasonal markers are required to have reflective material: fiberglass driveway sticks, pickets, reflector sticks, and metal posts to guide snow removal equipment and to guide vehicles along driveway or walking path.
3. **Seasonal markers** will only be permitted between the dates of November 1st and April 1st.

G. Swimming Pools.

Refer to NYS Uniform Fire & Building Code for the requirements and building permit required for swimming pool fences.

H. Enforcement.

The authority having jurisdiction, Enforcement Officer, Code Officer, Zoning Officer, or Building Inspector shall have concurrent jurisdiction to enforce, and make decisions regarding this article.

I. Violations.

1. If the determination of the Enforcement Officer for code or zoning, or a Building Inspector, is that a violation has occurred, the authority having jurisdiction shall notify the owner, in writing, and he shall be required to correct the violation within ten (10) working days or be subject to the penalties for the violations.
2. Violations are subject to fees, fines, possible jail time, and removal of Fencing, Walls, Trees, Shrubberies, Hedges, Plants, and seasonal markers by the Village.

J. Penalties for offenses.

In addition to reimbursing the Village for the cost of removal, repair, or restoration, (pursuant to Section 1202 herein):

1. Any violation of this section shall be deemed an offense punishable by a penalty fee; the schedule of fees that shall be established by resolution of the Village Board of Trustees of the Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.
2. Violation of the provisions of New York State Uniform Fire and Building Code shall be deemed an offense punishable by such fine and imprisonment as stated in the New York State Uniform Fire and Building Code.

K. Preexisting Fences, Walls, and Hedges.

1. Fences, walls, and hedges in existence at the date of enactment of this section will be required to be brought into full compliance with this section within one (1) year from the effective date thereof.
2. The Village of Sherman herein waives the ZBA Variance Fee for the fences, walls, and hedges in existence at the time of the enactment of this law that seek variance requests within one (1) year from the date of enactment of this section.

SECTION 6. UNSAFE STRUCTURES.

A new Section 636 hereby supersedes and replaces the original Section 636 of the Village of Sherman Zoning Code; which shall provide as follows:

Section 636 UNSAFE STRUCTURES

- A. Unsafe buildings, structures, and equipment, and conditions of imminent danger in this Village shall be identified and addressed in accordance with the procedures established by Local Law No. 3 of 2022, as now in effect or as hereafter amended from time to time.

SECTION 7. MOBILE FOOD VENDORS.

A new Section 641 hereby is added to the Village of Sherman Zoning Code, which shall provide as follows:

Section 641 MOBILE FOOD VENDORS

A. Purpose.

This section regulates the mobile food vendor industry and use and operation of mobile food vehicles within the Village of Sherman. The purpose of this regulation is to balance the potential impact on neighbors when mobile food trucks, trailers, or wagons are in use and to protect other commercial businesses within the Village of Sherman.

B. Conditions.

1. It shall be unlawful for any person to operate a mobile food vehicle within the Village of Sherman without first having obtained a valid mobile food vending permit from the Village of Sherman as prescribed in this section.

2. An annual mobile food vending permit can be reviewed at any time during the year if complaints of noncompliance are submitted; the permit may be revoked at any time without cause or notice.
3. It shall be unlawful for any person to operate a mobile food vehicle within the public right-of-way or on public property anywhere within the Village of Sherman, except as permitted herein:
 - a. Mobile Food Vendor shall not be permitted to operate without a special use permit in a R1 (Residential), or a R2 (Rural Residential) zoning district unless such use is located on the property of a preexisting social club, religious organization or not-for-profit organization duly organized in New York State.
 - b. Adjacent to or within a radius of one hundred (100) feet of the nearest edge of any parcel on which is located a licensed food establishment, the kitchen of which is open for serving food to patrons. This requirement may be waived if the proprietor of the adjacent food establishment gives written consent, and such consent is visibly displayed within the mobile food vehicle. This requirement shall be temporarily waived by the Village Board of Trustees for Village wide community festivals.
 - c. In any location that conflicts with any parking and vehicle and traffic laws, ordinances, rules, and regulations of the State of New York, the County of Chautauqua, and the Village of Sherman.
 - d. On any private property, unless the owner of such property gives written consent, and such consent is visibly displayed within the mobile food vehicle.
4. Permits are required by application under the following conditions:
 - a. Any person desiring to operate a mobile food vehicle shall make a written application for such permit to the Village of Sherman Clerk's Office on forms provided, which shall include the following:
 - i. name, signature and address of each applicant and each corporate officer of the mobile food vehicle vending corporation;
 - ii. a valid copy of all necessary licenses, permits, or certificates required by the County of Chautauqua, the State of New York, or any subsidiary enforcement agencies or departments thereof, including but not limited to, a valid New York State Department of Motor Vehicles registration and certificate of inspection and valid driver's licenses of all vehicle operators;
 - iii. a signed statement that the vendor shall hold harmless the Village of Sherman and its officers and employees for any claims for damages to property or injury to person which may be occasioned by any activity carried on under the terms of the permit; and
 - iv. insurance requirements:
 - a) The vendor shall furnish a certificate of insurance evidencing that the vendor possesses and maintains such public liability, food products liability, and damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days

written notice served upon the Village of Sherman. A permit issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the Village of Sherman.

- b) In addition to the above-required certificate of insurance, the Village of Sherman shall request that the vendor also endorse, maintain, and include the Village of Sherman as an additional named insured on its underlying business commercial general liability policy.
- b. Enforcement Officer of Code or Zoning or Building Inspector shall perform a code inspection by conducting a fire safety inspection of the mobile food vehicle as part of the process of issuing or renewing a mobile food vendor permit.
- c. Conditions of the mobile food vendor permit include:
 - i. a mobile food vendor permit shall expire on January 1st of each year;
 - ii. a permit shall not be transferable; and
 - iii. each permit is valid only for the vehicle for which it was issued.
- d. Conditions of operations within the Village include:
 - i. The owner/operator of any mobile food vehicle permitted by the Village of Sherman shall comply with all provisions of federal, state, and local laws and ordinances.
 - ii. The owner/operator of any mobile food vehicle permitted by the Village of Sherman shall comply with all notices, orders, decisions, and rules and regulations made by the Code Enforcement Office, the Chautauqua County Sheriff's Office, the Chautauqua County Health Department, or any other Village of Sherman department and/or agency.
 - iii. If operating on private property, the vendor must obtain and display in or on the vehicle evidence of permission granted by the owner of the property in writing, specifying the days, times and specific location(s) for which permission has been granted.
 - iv. Vending operation takes place in a designated parking lot / park space / Village property at the furthest point from the nearest property line, with sufficient space to accommodate the operation and not reduce any required parking for the permanent tenant(s) at that location.
 - v. Mobile food vehicles with a valid mobile food vending permit may be operated by the vendor during hours as approved by the property owner that are within the hours of operation permitted within the Village.
 - vi. Mobile Food Vendors may not operate mobile food vehicles:
 - a) before 9:00 a.m.; or
 - b) after 9:00 p.m., Sunday through Thursday; or
 - c) after 10:00 p.m. on Friday and Saturday for events open to the public or after midnight for private events.
 - vii. All signage must be permanently affixed to the mobile food vehicle except each vehicle may use one sandwich board sign no larger than six square feet per side.

- viii. Mobile Food Vendors must display signage indicating contact information for appeals/complaints, as well as proof of the annual agreement on the mobile food vehicle.
- ix. All mobile food vehicles must be equipped with trash receptacles of a sufficient capacity and shall be changed as necessary to prevent overflow or the creation of litter or debris.
- x. No products containing alcohol or cannabis may be sold or dispensed from mobile food vehicles.
- xi. All generators and equipment in operation on or in connection with the mobile food vehicle cannot exceed sixty (60) decibels.

C. Fees.

The fees for a mobile food vendor permit shall be established by resolution of the Village Board of Trustees of this Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.

D. Enforcement.

The authority having jurisdiction, Enforcement Officer, Code Officer, Zoning Officer, or Building Inspector shall have concurrent jurisdiction to enforce, and make decisions regarding this section.

E. Violations.

1. If the determination of the Enforcement Officer for code or zoning, or a Building Inspector, is that a violation has occurred, the authority having jurisdiction shall notify the owner or operator and the owner or operator shall be required to correct the violation or be subject to the penalties for the violations.
2. Violations shall be subject to penalty fees and revocation of the permit; additional fines and possible jail time shall be applicable with the violation of New York State laws.
3. Any mobile food vehicle operating without the required Village of Sherman permit shall be immediately closed by order of the Village of Sherman. Every day of operation without a valid permit shall constitute a separate violation.

F. Penalties for offenses.

In addition to reimbursing the Village for any costs incurred for removal, repair, or damage, as a result of a violation of this section, (pursuant to Section 1202 herein):

1. Any person, firm, corporation, or other entity violating the provisions of this section may be liable for penalties as prescribed below and elsewhere within the Village of Sherman Zoning Law and may be subject to immediate closure by the Village of Sherman, its Enforcement Officer of Code, Zoning or Building Inspector, pending an administrative hearing before the Municipal Zoning Board, which will be scheduled within 60 days of said immediate closure.
2. Any mobile food vehicle found to be in violation of this section may be subject to being towed at the cost of the owner and incur a penalty fee per violation from the Village of Sherman.
3. Any violation of this section shall be deemed an offense punishable by a penalty fee; the schedule of fees that shall be established by resolution of the Village Board of Trustees of the

Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.

4. Violation of the provisions of New York State Uniform Fire and Building Code and other applicable New York State laws shall be deemed an offense punishable by such fine and imprisonment as stated in the New York State Uniform Fire and Building Code and New York State law.

SECTION 8. PERMANENT / SEMI-PERMANENT COVERING.

A new Section 642 hereby is added to the Village of Sherman Zoning Code, which shall provide as follows:

Section 642 PERMANENT / SEMI-PERMANENT COVERING

A Purpose.

This section regulates the installation of Permanent and Semi-Permanent Coverings within the Village of Sherman. The purpose of this regulation is to prevent interference with the right-of-way and limiting, restricting, or prohibiting access to utility services, e.g., manholes, curb stops, house service lines, water main shut offs, and hydrant guard valves.

B. Conditions.

1. Preparing for a construction project involving Permanent or Semi-Permanent Covering:
 - a) Property owners are responsible to ensure project installation is done in accordance with the U-Dig Law (Call 8-1-1); at the time of this amendment, a Dig Notice is required whenever there is 'a disturbance of the ground'.
 - b) Prior to installing, pouring, or laying Permanent or Semi-Permanent Coverings, including but not limited to pavement and concrete for installations, including but not limited to driveways, courts, pads, sidewalks, patios, and garage floors, a plan of the intended construction project site plan shall be drawn.
2. Permanent / Semi-Permanent Covering Permits are required by application to provide the following information:
 - a) Name, signature, and address of the applicant or owner of the property.
 - b) Construction project site plan drawing.
 - c) List of materials.

C. Authority.

1. Enforcement Officer of Code or Zoning or Building Inspector shall oversee and issue the permit.
2. Local municipal approval of conditions of the Permanent / Semi-Permanent Covering Permit requires the review and approval of the Village Water, Wastewater, and Streets Departments.
3. A signed statement shall hold harmless the Village of Sherman and its officers and employees for any claims for damages to property which may be occasioned by any activity carried on under the terms of the permit.

D. Fees.

The fees for a Permanent / Semi-Permanent Covering Permit shall be established by resolution of the Village Board of Trustees of this Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.

E. Enforcement.

The authority having jurisdiction, Enforcement Officer, Code Officer, Zoning Officer, or Building Inspector shall have concurrent jurisdiction to enforce, and make decisions regarding this section.

F. Violations.

1. If the determination of the enforcement officer for code or zoning, or a building inspector, is that a violation has occurred, the authority having jurisdiction shall notify the owner or operator and the owner or operator shall be required to correct the violation or be subject to the penalties for the violations.
2. Violations shall be subject to penalty fees and revocation of the permit; additional fines and possible jail time shall be applicable with the violation of New York State laws.

G. Penalties for offenses.

In addition to reimbursing the Village for any costs incurred for removal, repair, or damage, as a result of a violation of this section, (pursuant to Section 1202 herein):

1. Any person, firm, corporation, or other entity violating the provisions of this section may be liable for penalties as prescribed below and elsewhere within the Village of Sherman Zoning Law and may be subject to immediate remediation by the Village of Sherman, its Enforcement Officer of Code, Zoning or Building Inspector, pending an administrative hearing before the Municipal Zoning Board, which will be scheduled within sixty (60) days of said immediate remediation.
2. Any violation of this section shall be deemed an offense punishable by a penalty fee; the schedule of fees that shall be established by resolution of the Village Board of Trustees of the Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.
3. Violation of the provisions of New York State Uniform Fire and Building Code and other applicable New York State laws shall be deemed an offense punishable by such fine and imprisonment as stated in the New York State Uniform Fire and Building Code, and New York State law.

SECTION 9. FEES, UNDER DUTIES OF THE ADMINISTRATION BY ENFORCEMENT OFFICER.

A new Section 702-C hereby supersedes and replaces the original Section 702-C of the Village of Sherman Zoning Code, which shall provide as follows:

Section 702-C FEES, under DUTIES of the ADMINISTRATION BY ENFORCEMENT OFFICER

- A. Fees –** The Enforcement Officer determines and calculates the applicable required fee(s) from the Schedule of Fees and notifies the applicant and municipal clerk of the fee due and payable. The municipal clerk is charged with the responsibility to collect, receive, record, and deposit payments. The Enforcement Officer is not to receive or deposit fees but verify the receipt of fees with the

municipal clerk prior to the release of permit(s), certificate(s), or license(s); and record the value of the permit issued with the Enforcement Department property records.

SECTION 10. SCHEDULE OF FEES.

A new Section 704 hereby supersedes and replaces the original Section 704 of the Village of Sherman Zoning Code, which shall provide as follows:

Section 704 SCHEDULE OF FEES

A fee schedule shall be established by resolution of the Board of Trustees of this Village. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, Fire Safety and Property Maintenance Inspections, Special Use Permits, Use and Area Variances, License Fees, Penalty Fees and other actions of the Enforcement Officer of Code, Zoning or Building Inspector described in or contemplated by this local law.

SECTION 11. ADMINISTRATIVE LIABILITY.

A new Section 705 hereby is added to the Village of Sherman Zoning Code, which shall provide as follows:

Section 705 ADMINISTRATIVE LIABILITY

No officer, agent, or employee of the Village shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter. Any suit brought against any officer, agent, or employee of the Village as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by Village Counsel until the final determination of the proceedings therein.

SECTION 12. PENALTIES.

A new Section 1202 hereby supersedes and replaces the original Section 1202 of the Village of Sherman Zoning Code, which shall provide as follows:

Section 1202 PENALTIES

A. Liability.

Any person, firm, corporation, or other entity violating the provisions of this Chapter may be liable for any one or more penalties as prescribed below and elsewhere within the Village of Sherman Zoning Law by the Village of Sherman, its Enforcement Officer of Code, Zoning or Building Inspector. Owners, occupants, and responsible agents may be liable for remuneration for remediation measures taken by the Village of Sherman and its employees and contractors in accordance with Village of Sherman Municipal Code and Zoning Law. Violations may lead to additional fines and imprisonment under the provisions of New York State Law. With notice given by any person

authorized by this Chapter to give such notice or order shall be punishable as provided in the penalty provisions of the Village of Sherman:

1. **By owner.** The owner of any property who shall fail to comply with any notice of order to clean up, remove, remediate, repair, vacate, demolish, or otherwise fail to come into compliance with the law.
2. **By occupant.** The occupant or lessee or tenant in possession who fails to comply with any notice given as provided for in this Chapter shall be punishable as provided in the penalty provisions of the Village of Sherman.
3. **By agent.** The legal custodian or designated responsible party for a property or operation who fails to comply with any notice given as provided for in this Chapter shall be punishable as provided in the penalty provisions of the Village of Sherman.
4. **Removal of notice.** Any person removing notice posted by the Village of Sherman shall receive a penalty fee as provided in the penalty provisions of the Village of Sherman.

B. Penalty Fees.

Any violation of this Chapter shall be deemed an offense punishable by a penalty fee; the schedule of fees that shall be established by resolution of the Village Board of Trustees of the Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.

C. Remuneration.

1. As a result of a violation of this Chapter, all expenses incurred by the Village in connection with the proceedings to clean up, remove, or remediate conditions on premises specified of any nature including legal costs shall be assessed against the land upon which the violations occurred and shall be levied and collected in the same manner as provided for the levy and collection of municipal taxes.
2. Any vehicle found to be in violation of this Chapter may be subject to being towed at the expense of the owner and incur a penalty fee per violation.
3. Any animal found to be in violation of this Chapter may be subject to collection and impoundment at the cost of the owner and incur a penalty fee per violation.

D. Orders.

As a result of a violation of this Chapter:

1. A business shall be subject to immediate closure and incur a penalty fee per violation.
2. A build shall be subject to a Stop Work Order and incur a penalty fee per violation.
3. A property shall be subject to an Order to Vacate and incur a penalty fee per violation.

E. Fines and Imprisonment.

1. Any violation of any provision of this Law by any person, corporation, or entity shall be punishable by a fine of up to \$1,500. Each week's continued violation shall constitute a separate additional violation.
2. Violation of the provisions of New York State Uniform Fire and Building Code and other applicable New York State laws shall be deemed an offense punishable by such fine and/or imprisonment as stated in the New York State Uniform Fire and Building Code and other applicable New York State laws.

F. Civil Action.

Notwithstanding the above, the Village Board of Trustees of the Village of Sherman hereby reserves the right to proceed to enforce the provisions of this Chapter by civil action, injunction, and any other remedy afforded to it by the laws of the State of New York and the United States.

SECTION 13. TERMS AND CONDITIONS.

Conflicting Statutes - All ordinances, local laws, or parts thereof in conflict with the provisions of this local law are hereby repealed to the extent necessary to give this local law full force and effect during the effective period.

Severability - Should any clause, sentence, paragraph, subdivision, section or other part of this local law be adjudicated by any court of competent jurisdiction to be invalid, such judgement, decree or order shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or other part thereof directly involved in the controversy in which such judgement, decree or order shall have been rendered and to this end, the provisions of each section of this local law are hereby declared to be severable.

SECTION 14. EFFECTIVE DATE.

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