

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**

MAY 09 2019

Local Law No. 1 of the year 2019

DEPARTMENT OF STATE

A local law Vacant, Abandoned, Boarded, and Foreclosed Property
(Insert Title)

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:

Section I. Title

The Village Board of the Village of Sherman hereby adopts its Vacant, Abandoned, Boarded, and Foreclosed Property Local Law, as follows:

Section II. Findings and Rates

Purpose.

A. The Village Board of Trustees of the Village of Sherman, Chautauqua County, New York, recognizes that there is a rising number of properties within the Village that have become abandoned, vacant, or boarded up as the result of the mortgage foreclosure process under New York State law or for other reasons, including but not limited to the inability of the owner or owners of such property to make real property tax payments, insurance payments, property maintenance requirements as established by local, county, state or federal codes, or for various other reasons. The Village Board of Trustees recognizes that buildings, both residential and commercial, have remained abandoned, vacant or boarded up for long periods of time, some for many years. As such, these buildings and the properties upon which they are constructed are unsightly and unsafe and have a negative effect on their surroundings and upon the community in general. The purpose of this chapter is to establish a program for identifying and registering abandoned and vacant buildings and properties; to determine the responsibility of the owners or mortgagees of these properties; to set forth the process for securing, maintaining and rehabilitating these properties and to require the registration of these properties with the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman.

(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 2019 of the ~~(County)(City)(Town)(Village)~~ of Sherman was duly passed by the Village Board of Trustees on May 1st 2019, in accordance with the applicable ~~(Name of Legislative Body)~~ provisions of law.

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

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

~~**3. (Final adoption by referendum.)**~~

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

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

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

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

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

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

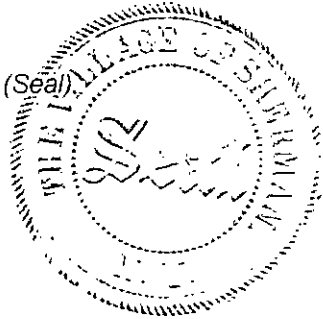
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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

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

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

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

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



A. Penn

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

Date: 5-6-19

- B. The Village Board of Trustees of the Village of Sherman intends that the provisions of this chapter are to prevent properties that have been abandoned, are vacant and/or may be involved in the mortgage foreclosure process from becoming dangerous, blighted, overgrown, and susceptible to vandalism and otherwise nuisances to the public in general and specifically to surrounding property owners. The Village Board of Trustees recognizes that properties involved in the mortgage foreclosure process in particular are left abandoned, vacant, and blighted locations that might breed nuisance and criminal activity for months and often years. Accordingly, the Village Board of Trustees believes that the provisions of this chapter requiring registration of properties; posting of properties; designation of local agents for properties; the securing of properties; penalties for the failure to comply with the requirements of this chapter and other ordinances, sanitary codes, building codes, and other local regulations dealing with the external and internal maintenance of properties is in the best interests of the public health, safety and welfare.

Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CODE OR ZONING ENFORCEMENT OFFICER/INSPECTION OFFICERS

Duly authorized representative of the Village of Sherman, Chautauqua County, New York, holding the position of Zoning Enforcement Officer, Inspection Officer, Code Enforcement Officer, Building or Fire Inspector.

EVIDENCE OF VACANCY

Any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, accumulation of abandoned real property, as defined herein, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

FORECLOSURE

The legal process by which any parcel, tract, lot or other defined area of real property, including the improvements located thereon, placed as security for a real estate loan, is sought to be sold by the lender/mortgagee to satisfy the debt if the borrower/mortgagor defaults. This definition shall include all processes, activities, and actions by whatever name associated with the described process.

LIS PENDENS

A pending legal action, or a formal notice of a pending legal action.

LOCAL AGENT

The agent designated by the owner or mortgagee upon registration as required by this chapter.

MORTGAGE

The creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

NOTICE OF DEFAULT

A recorded notice that a default has occurred under a mortgage and that the mortgagee intends to proceed with a foreclosure sale.

OWNER

Owner or owners of record on the assessment rolls in the Office of the Assessor of the Town and Village of Sherman; those identified as owner or owners on a vacant building registration form; a mortgagee in possession; a mortgagor in possession; a receiver or assignee of rents; an executor, trustee, or other person, firm, entity or corporation in control of the property or premises; persons or entities may have a joint and several obligations for compliance with the provisions of this chapter.

SECURING

Any measures that assist in making the property inaccessible to unauthorized persons.

VACANT OR ABANDONED BUILDING OR PROPERTY

A building or property or portion of same which is unoccupied and unsecured; unoccupied and secured by other than normal means; unoccupied and unsafe as determined by the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman; unoccupied and has multiple housing or Building Code violations; illegally occupied; unoccupied and the subject of Code violation notices issued by the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman. This shall not include individual condominium units or other individual units in a common-interest community where all exterior elements and common areas are jointly owned and maintained by a homeowners' or community association.

VACANT STRUCTURES

A building or structure that is not legally occupied.

Registration.

- A.** Within 10 days of the filing of a lis pendens and/or an action to foreclose upon a mortgage or similar security instrument, all mortgagees must register with the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman on forms provided by said official all property in foreclosure within the Village of Sherman. For properties for which a lis pendens and/or action for foreclosure upon a mortgage or a similar security instrument has been instituted prior to the effective date of this chapter and which has not yet been registered pursuant to this chapter, all mortgagees must register such properties within 60 days of the effective date of this chapter.
- B.** Mortgagees must designate and retain a local individual or local agent or property management company as the local agent responsible for the security and maintenance of the property. Owners of property that do not reside in the Village of Sherman must provide a name, address and contact information of a local agent with whom the owner has entered into a contract or agreement for property management.
- C.** All owners of abandoned and vacant properties shall register with the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman not later than 10 days after any building in the Village becomes an abandoned or vacant building and not later than 20 days after being notified by the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman of the requirement to register. The Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer may identify vacant buildings through his/her routine inspection process as well as through notification by residents, neighbors, neighborhood groups or other community groups that a building may be abandoned or vacant and eligible for inclusion on the required registry. Registration by owners shall be submitted on forms provided by the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman.
- D.** All owners and mortgagees must supply the following information to the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman:

 - (1)** A description of the premises, including the property address as well as the section, block and lot number of the property as set forth in the tax records of the Village of Sherman located in the Office of the Assessor of the Village of Sherman.
 - (2)** The names and addresses of the owner or owners, or mortgagee or mortgagees.

(3) Whether or not the owner or owners, mortgagee or mortgagees reside in the Village of Sherman, the name and address for the owner, owners, mortgagee, or mortgagees, mailing address, telephone number, local agent's name, mailing address, telephone number, e-mail address for the owner, owners, mortgagee or mortgagees. Mailing addresses may not be a post office box but must be an actual street address where the owner, owners, mortgagee, mortgagees reside or do business.

(4) The name, street address, telephone number and e-mail address of a natural person 21 years of age or older designated by the owner, owners, mortgagee, mortgagees as the authorized agent for receiving notices of Code violations and/or receiving process in any Court proceeding or administrative enforcement proceeding on behalf of such owner, owners, mortgagee or mortgagees in connection with the enforcement of any applicable code, ordinance, local law, regulation or statute. The agent for service of process must maintain an office or reside in Chautauqua County, New York.

(5) The name, street address, telephone number and e-mail address of the *firm or individual responsible for maintaining the property*. The individual or representative of the firm responsible for maintaining the property must maintain an office or reside within Chautauqua County, New York and shall be available by telephone or in person on a twenty-four-hour per day, seven day per week basis.

(6) A statement or plan as to what will be done to secure the structure and property so that it will not become open to the general public.

(7) The status of water, sewer, natural gas and electric utilities winterization of pipes at the structure and property.

Notices.

- A.** By designating an authorized agent as set forth above under the provisions of this chapter, the owner and/or mortgagee consents to receive any and all notices of Code violations concerning the registered abandoned or vacant property and all process in any Court proceeding or administrative enforcement proceeding brought to enforce Code provisions concerning the registered building or property by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the owner's designation for the purpose of this section until the owner notifies the Zoning Enforcement Officer/ Code Enforcement Officer/

Inspection Officer of the Village of Sherman in writing of a change of authorization or until the owner files a new annual registration statement.

- B.** Any owner who fails to register an abandoned or vacant property under the provisions of this chapter shall further be deemed to consent to receive, by posting at the building, any and all notices of Code violation and all processing of administrative or legal proceedings brought to enforce Code provisions or other laws or regulations concerning the structure or property.

Obligation of owners and/or mortgagees.

The owner or mortgagee of any structures that become abandoned or vacant property and any person designated as an agent or responsible for maintaining such structure or vacant property shall within 30 days of the structure becoming abandoned or vacant or 30 days of the owner or mortgagee taking title to the property, whether or not the deed for said property has been recorded with the Chautauqua County Clerk:

- A.** Close and secure the structures owned by or mortgaged to the applicant as imposed by this chapter and/or the State of New York or as set forth in the rules and regulations provided by the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman.
- B.** Insure that the grounds of the structure, including yards, fences, sidewalks, walks and driveways, are well maintained and kept free from trash or debris.
- C.** Maintain the structure in a secured and closed condition, keep the grounds in a clean and well-maintained condition and insure that the sign is visible and intact until the building is again occupied or demolished or until repair or rehabilitation of the building is complete.
- D.** All vacant real property shall at all times be properly maintained. A vacant building or structure shall be considered properly maintained if:
 - (1)** It has all doors and windows and other openings weather-tight and secured against entry by the general public as well as animals.
 - (2)** All roof and roof flashings shall be sound and tight such that no rain will penetrate the structure and must allow for appropriate drainage so as to prevent deterioration of the interior walls or other interior portions of the building. No temporary measures shall be permitted such as tarps, canvas, plastic, boards, etc. Temporary boarding of windows may be permitted upon application and consent by the Building Official of the Village of Sherman. The Building Official shall have the discretion to determine how long boarding may be permitted.

- (3) The building must be maintained in good repair, be structurally sound and free from rubbish, garbage, and other debris.
- (4) Structured members of the building shall be capable of bearing both live and dead loads and the foundation walls likewise shall be capable of supporting an appropriate load.
- (5) The exterior of the structure shall be free of loose or rotten materials as well as holes. Any exposed metal, wood or other surface shall be protected from the elements by appropriate weather-coating materials (paint or similar treatment).
- (6) Any balconies, canopies, signs, metal awnings, stairways, fire escapes or other overhanging extensions shall be in good repair, appropriately anchored. The exposed metal and wood surface of such overhanging extensions shall also be protected from the elements against rust or decay by appropriate application of paint or similar weather-coating.
- (7) Any accessories or appurtenant structures, including but not limited to garages, sheds, and other storage facilities, shall meet the same standards.
- (8) All bushes must be trimmed so as to provide an unobstructed view of the front of the house from the public roadway.
- (9) Grass and weeds compliance pursuant to Chapter 14 of the Village of Sherman Municipal Code.
- (10) All combustibles must be removed from the interior of all buildings and the exterior of the property.
- (11) Smoke and carbon monoxide detectors are installed and maintained in operable condition at all times.
- (12) The Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman is provided with proof of inspection of the premises by the agent or responsible party at least every 30 days after the abandonment commences.

Inspections.

The Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer, Fire Inspector and/or Police Department shall have the authority to inspect properties subject to this statute for compliance with same and to issue citations for any violations.

Certification of abandonment.

Upon the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer or his/her designee determining a property has been abandoned, he/she

shall cause a certification of abandonment to be filed with the Village Clerk's Office property records and such certification shall be served upon the owner of the premises either personally or by posting a copy of the certification in a conspicuous place on the property and by mailing a copy by certified mail to the owner(s) last known address.

- A. Upon the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer filing a certification of abandonment, the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer, Police Department and/or Fire Inspector may, without further notice to the owner, take necessary steps to ensure the property and/or dwelling is properly maintained pursuant to this chapter. Costs incurred under this section shall be paid out of the municipal general fund on certificate of the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer. Such costs shall be charged against the land on which the building existed, as a municipal lien, or shall be added to the tax roll as an assessment or shall be levied as a special tax against the land upon which the building stands or stood or shall be recovered in a suit at law against the owner.
- B. The owner of a property declared abandoned may petition the Municipal Board to remove the certification of abandonment by providing proof to the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer that the basis of the certificate of abandonment no longer exists and the owner is in compliance with this chapter.

Insurance.

The owner or mortgagee of any abandoned or vacant property shall acquire or otherwise maintain liability insurance in the amount of not less than \$300,000 for buildings designated primarily for a one- or two-unit residential use and not less than \$1,000,000 for any other building including but not limited to buildings designed for multifamily, manufacturing, storage or commercial uses covering any damage to any person or any property caused by any physical condition of or in the building. The Village of Sherman shall be named as an additional insured and shall be entitled to notification of any renewal or lapse of coverage in writing of said policy. The owner and/or mortgagee shall attach evidence of insurance to the registration statement required by this chapter. Failure to attach the insurance statement to the registration form submitted to the Village shall cause the registration form to be invalid. The alternative to insurance, the owner and/or mortgagee must supply a cash bond acceptable in form to the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman in a sum of \$10,000 to secure the continued maintenance of the property throughout

its abandoned or vacant state and to remunerate the Village of Sherman for any expenses incurred in inspecting, securing, marketing or making such building safe.

Registry.

- A. The Village of Sherman shall establish a registry of all properties registered with the Village under this chapter and shall include a procedure by which citizens can provide the Building Official/Code Enforcement with information on unregistered properties that may be subject to this chapter.
- B. New owners shall register or re-register the abandoned or vacant building or properties with the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer within 30 days of any transfer of ownership interest in the abandoned or vacant building or property whether or not the deed to said property has been recorded with the Chautauqua County Clerk.
- C. The Village of Sherman shall send notice to property owners within 200 feet of the abandoned or vacant building or properties. The notice shall read: *The neighboring property at address: (insert address of the abandoned or vacant building or properties) has been identified by the Village of Sherman to be a vacant, abandoned, boarded, or foreclosed property. You are receiving this notice in lieu of the property owner displaying an 18x24 inch sign clearly visible from the street. To Report Problems with this Building/Property Call and/or E-mail. The contact information regarding this property, contains a twenty-four-hour contact phone number of the local individual or property management company responsible for the maintenance: (insert direct contact information); and (insert name, address, telephone number, and email of the owner and/or mortgagee and the owner and/or mortgagees authorized agent for the purposes of service of process.)*

In an emergency first call 9-1-1

Please contact a Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer, (insert lists of officers and their contact information.), for further assistance.

Fees.

- A. The owner/mortgagee of a vacant or abandoned building or property shall pay an annual fee of \$750 for the first year the building remains vacant or abandoned or any portion of said year. The fee shall cover the administrative costs for registering and processing the vacant or abandoned building or property and the cost for the Village in monitoring the abandoned or vacant property or building. The fee shall be paid upon filing

of the registration form as required by this chapter. Subsequent annual fees shall be:

- (1) For the second year the building remains abandoned or vacant: \$1,000.
- (2) For the third year the building remains abandoned or vacant: \$1,250.
- (3) For the fourth year the building remains abandoned or vacant: \$1,500.
- (4) For the fifth year the building remains abandoned or vacant: \$1,750.
- (5) For the sixth year the building remains abandoned or vacant: \$2,000.
- (6) For the seventh year the building remains abandoned or vacant: \$2,500.
- (7) For the eighth year the building remains abandoned or vacant: \$3,000.
- (8) For the ninth year the building remains abandoned or vacant: \$3,500.
- (9) For the tenth year the building remains abandoned or vacant: \$4,000.

B. For ownership interest in any abandoned or vacant property whether or not the deed has been recorded with the Chautauqua County Clerk. The owners shall be responsible for any unpaid fees.

Exceptions.

- A.** A building or property which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of 180 days after the date of the fire or extreme weather event if the property owner/mortgagee submits a request for exemption in writing to the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer of the Village of Sherman. This request shall include a description of the property; the names and addresses of the owner and/or mortgagee; a statement of intent to repair and re-occupy the building in an expedient manner or intent to demolish the building.
- B.** Additional exceptions to this statute shall be if in the sole and reasonable discretion of the Zoning Enforcement Officer/ Code Enforcement Officer/ Inspection Officer the property is subject to any one or more of the following:
- (1) A valid open building permit being pursued with diligence;
 - (2) A pending land use application including site plan, subdivision or special permit application being pursued with diligence;
 - (3) A pending application to a governmental body being pursued with diligence for an approval pertaining to the physical improvement of the property;
 - (4) Utilization of the building by the Village of Sherman on a temporary basis not to exceed 12 months for Village purposes including but not limited to fire training.

(5) Seasonal absences from residential homes or commercial buildings in compliance with International Code, Village Zoning and Municipal Code.

Penalties for offenses.

If an owner and/or mortgagee shall violate any portion of this chapter, they shall be subject to a fine of not more than \$500 or 30 days in jail, or both, with the understanding that each day a violation continues shall be deemed a separate offense.

Section III. Terms and Conditions

Conflicting Statutes. All local laws or ordinances or parts of local laws or ordinances in conflict herewith are hereby repealed.

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 judgment, 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 judgment, 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 IV.

This Local law shall take effect Saturday, June 1st, 2019. This Local law shall take effect after the passage by the Village Board and filing with the Secretary of State in the manner provided by law.

May 1st, 2019 Resolution RES 2019-05-1.17

Mayor: Colleen Meeder

Trustees: Isaac Gratto, Mary Reyda, Donna Lee Higginbotham, and Kirk Ayers