

(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 Sherman
~~City~~ of _____
~~Town~~ _____
Village _____

Local Law No. 2 of the year 1999

A local law Establishing a Curfew for the Village of Sherman.
(Insert Title)

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

County
~~City~~ of Sherman as follows:
~~Town~~ _____
Village _____

SECTION I. Title

This local law shall be entitled "A Local Law Establishing a Curfew for the Village of Sherman."

SECTION II. Findings

The Village Board of the Village of Sherman is concerned about the number of young children who frequent the downtown and other areas of the Village of Sherman at late hours.

The Village Board of the Village of Sherman believes that children 17 years of age and under should not be permitted in public places in the Village of Sherman between the hours of 10:00 PM and 6:00 AM unless within the exceptions provided by this Local Law. These children should be at home, not loitering, congregating, wandering or playing in or upon any public place.

The Village Board of the Village of Sherman believes the curfew law should be at least restrictive as reasonably possible, and while at the same time assuring that the welfare of the minor and community are protected from the dangers inherent in allowing children under the age of 18 from staying out in the Village at late hours.

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

After due deliberation, the Village Board of the Village of Sherman believes the community sense of the proper time for cessation of outdoor activities by minors is reflected in the curfew hours declared by this Local Law, which take into consideration the dangerous hours for nocturnal crime and for accumulation of minors with the potential risks, which are incident to immaturity.

SECTION III. Purpose

The Village Board of the Village of Sherman, New York hereby determines that a curfew is necessary to further the public health, safety, morals and general welfare of the inhabitants of the Village of Sherman and for the protection and safety of all residents, minors, and adults alike by reducing criminal activities and vandalism.

SECTION IV. Definitions

For the purpose of this Local Law the following terms, phrases, words and their derivations shall have the meaning given herein:

- A. "Establishment" means any privately owned place of business operated for a profit in which the public is invited, including but not limited to, any store, restaurant, tavern, and place of amusement or entertainment.
- B. "Minor" is any person the age of seventeen (17) or under.
- C. "Operator" is any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment within the Village of Sherman. The term includes the members or partners of an association or partnership and the employees thereof and the officers and employees of a corporation.
- D. "Parent" is any person having legal custody of a minor (I) as a natural or adoptive parent, (II) as a legal guardian, (III) as a person who stands loco parentis, or (IV) as a person to whom legal custody has been given by a court order.
- E. "Public Place" means any place within the Village of Sherman to which the public or any portion of the public has access and includes, but is not limited to, streets, alleys, sidewalks, parking lots, parks, playgrounds, and similar areas that are open to the use of the public. As a type of public place, a street is a way, or place, of whatever nature, open to the use of the public as a matter of right for the purpose of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. "Street" includes the legal right of way including, but not limited to the cart way of traffic lanes, the curb, and the sidewalks whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street.
- F. "Shall" is always mandatory and not merely directory.

SECTION V. Curfew for Minors

It shall be unlawful for any person seventeen (17) years of age or less to be or remain in or upon a public place within the Village of Sherman during the hours of 10:00 PM to 6:00 AM on all days.

SECTION VI. Exceptions

A person under the age of eighteen (18) years shall not be considered in violation of the Local Law under the following circumstances:

- A. When accompanied by a parent or legal guardian of such minor.
- B. In case of an emergency involving a threat to life or property.
- C. When returning home by a **direct route** from and within one-half (1/2) hour after the termination of a school sponsored activity or an activity of a religious, civic, or retail organization, supervised by adults.
- D. When returning home by a **direct route** from the minor's lawful and gainful employment,

SECTION VII. Enforcement Procedures

- A. If a police officer reasonably believes that a minor is in a public place in violation of this Local Law, the officer shall notify the minor that he or she is in violation of this Local Law and shall require the minor to provide his or her name, address, and telephone number and how to contact his/her parent or guardian. In determining the age of the minor and in the absence of convincing evidence, such as a birth certificate, a police officer shall in the first instance of violation of this Local Law, use his or her judgment in determining age.
- B. The police officer shall issue the minor a **written warning** that the minor is in violation of this Local Law and order the minor to go promptly home or take the minor home themselves. The police officer shall send the parent or guardian of the minor a written notice of the violation by certified mail or personal delivery.
- C. Notwithstanding Paragraph B of this Section, when a minor refuses to heed the warning or direction, given by any police officer or refuses to give the police officer his/her correct name and address, the procedures shall then be to take the minor to the police substation (Sherman Village Offices), or other suitable location where a parent

or guardian shall immediately be notified to come for the juvenile whereupon the parent or guardian and the minor shall be questioned.

- D. When a parent or guardian, immediately called, has come to take charge of the minor and the appropriate information has been recorded, the minor shall be released to the custody of such parent along with written notice of action taken. If the parent cannot be located or fails to take charge of the minor, then the minor shall be released to the juvenile authorities, or the minor may temporarily be entrusted to an adult, relative or other person who will on behalf of a parent or guardian assume responsibility of caring for the minor pending the availability or arrival of a parent or guardian.
- E. In any event the police officer shall within 48 hours, file a written report of the curfew violation with the local Village of Sherman Justice Court or shall participate to the extent of the information for which he or she is responsible in the preparation of a report of the curfew violation. It is not the intention of this Local Law to require extensive reports that will prevent police officers from performing other police duties. The report shall be as simple as is reasonably possible and may be completed by police department personnel other than sworn police officers.

Section VIII. Procedure with Minors: Penalties

- A. Local procedures for minors under age twelve (12). Any minor under the age of twelve (12) years violating any of the provisions of this Local Law shall be escorted home by any police officer discovering such violation to the minor's home and such police officer shall forthwith report, in writing, the name and residence of the parents of such minor to the local Village of Sherman Court.
- B. Minors under the age of eighteen (18); court procedure. Any minor under the age of eighteen (18) years found in violation of any provisions of this Local Law on three or more separate occasions within a six month period, shall be dealt with by the police officer in accordance with the provisions of Article 7 of the Family Court Act or Article 10 of the Family Court Act as the police officer shall deem appropriate under the circumstance.
- C. After the warning pursuant to the applicable provisions of Section 7 of this Local Law, any parent whom repeatedly allows violations to this Local Law or minor who is sixteen (16) years of age (i.e. has attained the age of 16 years but is not yet 18 years of age) who shall violate any provisions of this Local Law shall be punished by a fine not more than;

1st Violation - warning citation

2nd Violation - \$25.00
3rd Violation - \$100.00
4th Violation - \$200.00
Subsequent Violations - \$350.00

Community service penalties may be in addition to any of these fines.

SECTION IX. Construction and Severability

Severability is intended throughout and within the provisions of this Local Law. If any of the provisions of this Local Law, including any exception, part, phrase, term, or any application thereof to any person or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of this Local Law in any and all other respects shall not be affected thereby.

SECTION X.

This Local Law shall take effect immediately upon passage of same and its filing in the manner provided by law.

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

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

I hereby certify that the local law annexed hereto, designated as local law No. #2 of 1999 of the (County)(City)(Town)(Village) of Shelburne was duly passed by the Village Board on October 20 1999, 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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. 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 _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* 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 19____ 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 _____ 19____, 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 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, 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 _____, above.

Johann M. Mergu
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: November 10, 1999

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Chautauque

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]
Signature

Village Attorney
Title

County
City of Shawmen
Town
Village

Date: 11/10/99