REGULAR MEETING / PUBLIC HEARING ON LOCAL LAW No. 3 of 2020, TOWN OF SHERMAN,
June 4, 2020

A regular meeting / Public Hearing of the Town of Sherman Board was held on Thursday, June 4, 2020 at the Town Highway Building, 111A Mill St, Town of Sherman, Chautauqua County, New York at 7:00 PM.

Present:	Mark D. Persons	Supervisor
	James L. Higginbotham	Council Member/ Deputy Supervisor
	Howard E. Crump	Council Member
	Bessie V. Endress	Council Member
	Ben Nickerson	Council Member
	Dennis Sweatman	Highway Superintendent
	Tamera M Weise	Town Clerk

Absent:

Guests: Greg Osman – CEO,

Supervisor Persons called the meeting to order at 7:00 and led the Pledge to the flag.

Public Hearing Local Law 3-2020

- Supervisor Mark Persons opened the Public Hearing on Local Law No. 3 of 2020 in regards by which the Town of Sherman would enact regulations for Solar Energy Systems. Mark went over the details of the law. Discussion was held and questions answered concerning the law.

RESOLUTION #25

Councilwoman Bessie Endress made the motion, seconded by Councilman Howard Crump to adjourn the Public Hearing and adopt Local Law No. 3 of 2020. MOTION CARRIED.

TOWN OF SHERMAN
LOCAL LAW NO. 3 OF 2020
A LOCAL LAW ENACTING REGULATIONS FOR SOLAR ENERGY SYSTEMS

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

SECTION 1. AUTHORITY.

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

1. Article IX of the New York State Constitution, §2(c)(10);

2. New York Statute of Local Governments, §10(1) and (7);

3. New York Municipal Home Rule Law, §10(1) (i) and (ii) and §10(1) (a), (11), (12), and (14);

4. New York Town Law §130 (11) (peace, good order and safety), (15) (promotion of public welfare); and

5. New York Town Law §64(17-a)(protection of aesthetic interests), (23)(general powers).

SECTION 2. PURPOSE.

The Town Board of the Town Sherman, exercising the authority granted to under the Town Law of the State of New York to protect the health, safety, and welfare of the residents and property owners of the Town of Sherman, does hereby enact this Section to regulate the construction, maintenance and placement of solar energy systems and equipment in the Town of Sherman. The purpose of this regulation is to balance the potential impact on neighbors when solar collectors may be Installed near their property, while preserving the rights of property owners to install solar collection systems without excess regulation. The Town of Sherman recognizes the importance of solar systems in generating electricity for on-premise and off-premise use, the reduction of greenhouse gas emissions and support for emerging solar system economic development.

SECTION 3. DEFINITIONS.

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

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) - A solar energy system that consists of integrating photovoltaic modules into the building structure. Technologies include PV shingles or tiles, PV laminates and PV Glass. Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings and roofs

GROUND MOUNTED SYSTEMS - A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

LARGE-SCALE SYSTEM - Solar energy systems used primarily to convert solar energy into electricity for off-site consumption or sale and/or systems that have the capacity to produce more than 25KW per hour of energy.

ROOF-MOUNTED SYSTEM - A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush mounted system or as modules fixed to frames which can be tilted toward the sun at an optimal angle. Roof mounted systems shall be located on a roof of a permitted principal use or accessory structure.

SMALL-SCALE SOLAR - Small Scale Solar means a solar energy system that is installed and placed for the production of energy for consumption only on-site and that has the capacity to produce less than 25KW per hour of energy.

SOLAR ENERGY EQUIPMENT - Energy storage devices, materials, hardware, or electrical equipment and conduit associated with the production of electrical energy.

SOLAR ENERGY PRODUCTION FACILITY - Energy Generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

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

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

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

SECTION 4. APPLICABILITY

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

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

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

D. All fees for applications made pursuant to this local law shall be established by resolution of the Town Board. Nothing herein shall be read to limit the ability of the Town to enter into host community agreements with any applicant to compensate the Town for expenses or Impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required under SEQRA if an EIS is required.

SECTION 5. SOLAR AS AN ACCESSORY USE/STRUCTURE.

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

A. Roof-mounted Systems. Roof-mounted Systems are permitted as an accessory use when attached to a lawfully-permitted principal structure and/or accessory structure, subject to the following requirements:
   1. Aesthetics. Solar energy equipment shall incorporate the following design requirements:

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

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

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

EXCEPTIONS:

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

[2] Detached garages and accessory units.

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

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

[1] In areas that establish access pathways which are independent of each other and as remote from each other as practicable so as to provide escape routes from all points along the roof.

[2] In areas that do not require the placement of ground ladders over openings such as windows or doors or areas that may cause congestion or create other hazards.

[3] At strong points of building construction, such as corners, pilasters, hips, and valleys and other areas capable of supporting the live load from emergency responders.

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

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

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

f. Ground access areas (324.7.3). Ground access areas shall be located directly beneath access roofs and roof access points. The minimum width of the ground access area shall be the full width of the access roof or roof access point, measured at the eave. The minimum depth shall allow for the safe placement of ground ladders for gaining entry to the access roof.

g. Single ridge roofs (324.7.4). Panels, modules or arrays installed on roofs with a single ridge shall be located in a manner that provides two (2), 36 inches wide (914mm) access pathways extending from the roof access point to the ridge. Access pathways on opposing roof slopes shall not be located along the same plane as truss, rafter, or other such framing system that supports the pathway

EXCEPTIONS:

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

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

[3] One access pathway shall be required when a roof slope containing panels, modules or arrays is located not more than 24 inches (610 mm) vertically from an adjoining roof which contains an access roof.

h. Hip roofs (324.7.5). Panels, modules and arrays installed on dwellings with hip roofs shall be located in a manner that provides a clear access pathway not less than 36 inches (914mm), extending from the roof access point to the ridge or peak, on each roof slope where panels, modules or arrays are located.

EXCEPTIONS:

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

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

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

EXCEPTIONS:

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

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

EXCEPTIONS:

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

[b] Detached garages and accessory structures.

B. Ground Mounted Systems.

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

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

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

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

5. Other:

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

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

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

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

SECTION 6. SOLAR AS PRINCIPAL USE.

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

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

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

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

1. Verification of utility notification. Foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.

2. Name, address, and contact information of the applicant, property owner(s) and agent submitting the proposed project application.

3. 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.

4. Blueprints showing the layout of the proposed system signed by a Professional Engineer or Registered Architect.

5. Equipment specification sheets for all photovoltaic panels, significant components, mounting systems and invertors that are to be installed.

6. A propert operation and maintenance plan describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, etc.

7. Decommissioning Plan:

   a. 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.*

   b. 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.

C. Special Permit Standards

1. Setback(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.

2. All large scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs shall be placed on the entrance and perimeter of the fencing. The height and type of fencing shall be determined by the Special Permit process.

3. On-site electrical interconnection lines and distribution lines shall be placed underground, unless otherwise required by the utility.

4. The removal of existing vegetation shall be limited to the extent necessary for the construction and maintenance of the solar installation.

D. Solar Storage Batteries.

1 If solar storage batteries are included as part of the Solar Energy Collection system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code. All solar storage batteries, their maintenance, placement, and location shall also comply with all applicable rules and regulations as promulgated by New York State Building Code and the National Electric Code.

2. When batteries are no longer in use, they shall be disposed of in accordance with the laws of the State of New York and any applicable Federal or Local disposal rules or regulations.

SECTION 7. ENFORCEMENT.

A. Any violation of any provisions of this local law shall be punishable by penalty or a term of imprisonment as prescribed in Section 268 of the Town Law of the State of New York.

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

SECTION 8. VALIDITY AND SEVERABILITY.

If any part or provision of this Local Law shall be declared invalid, void, unconstitutional or unenforceable by a court of law, all unaffected provisions hereof shall survive such declaration and this Local Law shall remain in full force and effect as if the invalidated portion had not been enacted.

SECTION 9. EFFECTIVE DATE.

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

The Regualr meeting for the Town of Sherman resumed at 7:15 p.m.

*Greg Osman- CEO gave his monthly report as follows:
Number of inspections for May 27
Number of inspections this year is 51
Number of Permits issued for May 8
Number of Permits for this year is 17
Dollar Amount of Permits for May $591,800
Dollar amount of Building this year are $787,600
Miles traveled for May 122

Permits issued to:

Paul Slagle, 2797 Armenian Rd, for a generator
Ben Coblentz, 8563 Rt 430, for a storage building.
Jim Weise, 206 Park St, for a house
Alan Miller, 2893 Rt. 76 for a house and barn
Paul Miller, Bement Rd for a house and barn
Melvin Burkholder, 7365 Stebbins Rd for a house

- Greg presented the board with Solar Permits fees from other municipalities to help set fee structures for The Town of Sherman.
  After questions/discussion it was decided to set Solar Permit fees.

RESOLUTION #26

Supervisor Mark Persons made the motion, seconded by Councilman James Higginbotham to set the following fee schedule for Solar Permits in the Town of Sherman:
$50.00 for Household Solar Panel under 30 sq. foot.
$100 for the first $1,000 of value plus $7.00 for each additional $1,000 of value or fraction thereof with a cap of $10,000.

MOTION CARRIED.

APPROVAL OF MINUTES

RESOLUTION #27

Councilwoman Bessie Endress made the motion, seconded by Councilman Ben Nickerson to approve the minutes from the last board meeting. MOTION CARRIED.

RESOLUTION #28
ABSTRACTS/CLAIMS

Councilman James Higginbotham made the motion, seconded by Councilwoman Bessie Endress to approve payment of General Claims #73 through #91 in the amount of $51,647.76, Highway Claims #59 through #68 in the amount of $13,592.68. MOTION CARRIED.

JUDGE'S REPORT

Judge VanVolkenburg's March report shows fines $695.00, civil fees of $140.00 and surcharges of $683.00 for a total of $1518.00. Judge Neal's March report shows fines of $726.00, civil fees of $70.00 and surcharges of $482.00 for a total of $1278.00.

NO Report for April

Judge VanVolkenburg's May report shows fines of $160.00. Judge Neal's May report shows fines of $369.00, and surcharges of $206.00 for a total of $575.00.

CLERK/REGISTRAR'S REPORT

The Clerks hours are back to regular time of Mon. – Tues. - Thurs 9:00 – 4:00 and Friday 9:00 – 2:00.
The door is locked to the public with a notice telling them to knock and they will be let in. This is to help keep the number of customers in the lobby to a minimum.

ASSESSOR'S REPORT

June Assessor's Report

- There were 4 deeds recorded in April
- Grievance Day was held on Wednesday May 27th from 4:00-8:00. There were a total of 4 complaints presented before the Board of Assessment Review.
- The Assessment Roll is complete and will be transferred to the Chautauqua County Real Property tax Office and the NYS Office of Real Property Tax Services by July 1.
- We will again be at 100% equalization for the Assessment roll year 2020.
- June and July will be a month of filing and returning to normal as the office begins to re-open.
- August will be sales verifications for all sales within the past year.

HIGHWAY SUPERINTENDENT REPORT

Highway Superintendent Dennis Sweatman brought the following to the Boards attention:

- The County Highway Dep. is unable to use their stump grinder at this time to remove the tree stumps left at the cemetery.
- Dennis found out at the Chautauqua County Superintendents meeting that NYS CHIPS money is not available at this time. Municipalities are supposed to be notified via a letter from NYS when monies become available.

SUPERVISOR

- Supervisor Mark Persons shared his thoughts on the current situation with Town funds. He is **estimating** what we might receive for the next quarterly sales tax and is figuring that the Highway Item I will have a deficit of about $25,000 and the General about $10,000. He encouraged Highway Superintendent Sweatman to hold back from spending as much as possible until we receive some solid answers.
- Supervisor Persons made a recommendation to send a letter to the Village of Sherman and Sherman Central School stating that the Town Board resolved to suspend the Youth Recreation $2500 revenue collection for 2020 due to the current COVID restrictions on summer youth programs.

RESOLUTION #29

Councilman James Higginbotham made the motion, seconded by Councilman Ben Nickerson to suspend the 2020 Youth Recreation $2500 revenue collection from the Town of Sherman, Village of Sherman and Sherman Central School due to the current COVID restrictions on summer youth programs. MOTION CARRIED.

- Supervisor persons asked the Boards opinion on multiple homes being built on one parcel of property. CEO Greg Osman had brought this issue to Marks attention. After discussion it was decided to have Mark discuss this with Tax Assessor Heather Young Deyell and Town Attorney Joel Seachrist for your thoughts and feedback. He will report back to the Town Board at the July meeting.

MEETING ADJOURNED AT 8:00 p.m.

Respectfully Submitted,

Tamera M Weise
Sherman Town Clerk