Introductory Version 2 – REVISED 11/3/14 TO CORRECT TYPO

A LOCAL LAW EXPANDING THE SCOPE OF THE MORATORIUM ON THE PROCESSING OF APPLICATIONS FOR, AND THE ISSUANCE OF ANY APPROVALS OR PERMITS FOR, CERTAIN NON-RESIDENTIAL LAND USES IN THE TOWN OF SCHOHARIE AND EXTENDING ITS TERM FOR AN ADDITIONAL SIX (6) MONTH PERIOD

Be it enacted by the Town Board of the Town of Schoharie as follows:

Section I – Purpose and Intent

By Local Law 3~~2~~ of 2014, the Town Board of the Town of Schoharie enacted an eight (8) month moratorium on the processing of applications for, and the issuance of any approvals or permits for, certain non-residential land uses in the Town of Schoharie (the "moratorium"). The moratorium became effective on May 1, 2014 when Local Law 3~~2~~ of 2014 was filed with the New York Secretary of State and is set to expire on January 1, 2015.

The moratorium declared a temporary moratorium on the processing or approval of applications for building permits, special use permits, special permits, variances, site plan approval or subdivision approval related to the undertaking, establishment, placement, development, excavation, enlargement, construction or erection of the following in the Town: 1) Free Standing Signs above a specified maximum height and maximum square footage; 2) Telecommunications Towers; 3) Resource Extraction and Mining Operations; 4) Public Utilities/Facilities; 5) Wind Energy Facilities; 6) Land Application Facilities, Natural Gas and/or Petroleum Extraction Activities, Natural Gas and/or Petroleum Exploration, Extraction or Production Wastes Disposal/Storage Facility, Natural Gas and/or Petroleum Exploration, Extraction or Production Wastes Dump, Natural Gas Compression Facility, Natural Gas Processing Facility, Underground Injection, or Underground Natural Gas Storage; and 7) activities undertaken in the Barton Hill Natural Resource Protection Area that are inconsistent with the rules and regulations previously established in coordination with the Schoharie County Health Department for protection of the Barton Hill Watershed attached to Local Law 3~~2~~ of 2014 as Schedule A.

In 2005, after a lengthy period of drafting, review and deliberation, the Town adopted a comprehensive land use law (the "2005 Land Use Law") to regulate the location, design, construction, alteration, occupancy, and use of structures and the use of all land located within the municipal boundaries of the Town (outside of the Village of Schoharie). By Decision and Order dated February 19, 2014, the Hon. Eugene P. Devine, J.S.C., County of Schoharie, annulled and set aside the 2005 Land Use Law, after finding the Town did not strictly adhere to the procedural requirements of the New York State Environmental Quality Review Act (SEQRA) when the law was adopted. As a result, the 2005 Land Use Law, and the post-adoption

amendments thereto, including Local Law No. 2 of 2009 relating to Wind Energy Facilities and Local Law No. 3 of 2012 relating to Land Application Facilities, Natural Gas and/or Petroleum Extraction Activities, Natural Gas and/or Petroleum Exploration, Extraction or Production Wastes Disposal/Storage Facility, Natural Gas and/or Petroleum Exploration, Extraction or Production Wastes Dump, Natural Gas Compression Facility, Natural Gas Processing Facility, Underground Injection, or Underground Natural Gas Storage, are null and void.

Through the annulment of the 2005 Land Use Law, the Town's Amended Zoning Ordinance of 1975 (the "1975 Zoning Ordinance") is now in effect. The 1975 Zoning Ordinance was adopted over thirty (35) years ago and does not contemplate, address or regulate many new technologies and land uses that have become prevalent in the region and greater State. In the same respect, use regulations included in the 1975 Zoning Ordinance are out of date and do not provide adequate safeguards to ensure certain non-residential uses are located and undertaken in a manner that will not result in a material adverse impact on the Town's built and natural environment.

The Town Board determined that the development of the specified non-residential uses in the Town proceed under the 1975 Zoning Ordinance would lessen the ability of the Town to plan for its orderly development and protect the public health, safety and general welfare of the Town's citizens. The moratorium was adopted to give the Town Board a period of time to carefully review and complete the re-enactment of a new land use law with supplemental regulations for specified non-residential uses, schedule and hold the required public hearing, perform the appropriate environmental reviews, comply with applicable provisions of law, adopt the local law(s), and file the same with the Secretary of State of the State of New York.

The Town Board has been working toward the adoption of a new land use law by hiring a professional planner to work with the Town Board and offer assistance, reviewing the Town's Comprehensive Plan and conducting workshops to receive public comment on its vision, goals, objectives and recommendations, and requesting and reviewing reports from the Chairmen of the Town Planning Board and Zoning Board of Appeals identifying variance and special use permit approvals, and notable site plan and subdivision approvals from 2005 to present.

It is the Town Board's desire to complete its review of the Comprehensive Plan and the subsequent development, introduction, consideration and ultimate adoption of a new land use law in an appropriate and deliberate manner free from any race to diligence or timing concerns raised by the possible expiration of the moratorium. The moratorium is set to expire on or about January 1, 2015 and it is anticipated the Town Board will need additional time to complete this process, the related environmental review, and the required procedure for the adoption of a local law. Accordingly, the Town Board desires to extend the current moratorium for an additional six (6) month period.

In addition, the Town Board desires to expand the scope of the moratorium to include solar farms (a non-residential use that is not contemplated, addressed or adequately regulated under the 1975 Zoning Ordinance) and to prohibit the processing or approval of applications for Planned Development Districts ("PDD") for all non-residential uses within the scope of the moratorium and this proposed local law.

The Town Board desires to effectuate its long term goals for the future development of the community and address, in a careful manner, the undertaking, establishment, siting, placement, construction, enlargement and erection of the non-residential land uses and activities within the scope of Local Law 3~~2~~ of 2014 and this proposed local law on a comprehensive Town-wide basis, rather than on an ad hoc basis, and to adopt a new land use law that includes provisions to specifically regulate the same.

The Town Board finds that pursuant to 6 NYCRR 617.5(c)(30) a local law to expand the scope of the moratorium and extend its term for an additional six (6) month period is a Type II action under the New York State Environmental Quality Review Act ("SEQRA") which has been determined not to have a significant impact on the environment or is otherwise precluded from environmental review under Environmental Conservation Law, article 8 and is therefore not subject to review under 6 NYCRR Part 617 or Environmental Conservation Law article 8.

Section II – Moratorium –Expanded Scope and Extended Term

A. Local Law 3~~2~~ of 2014 is hereby amended to expand the scope of the moratorium as follows:

(i) Section 2 of Local Law 3~~2~~ of 2014 ("Purpose and Intent") is hereby amended to include "Solar Farms" to the list of non-residential land uses covered by the moratorium.

(ii) Section 2 of Local Law 3~~2~~ of 2014 ("Purpose and Intent") is hereby amended to add applications and approvals for "Planned Development Districts (PDD)" to the list of the permit applications and land use approvals for non-residential uses that are covered by the moratorium.

(iii) Section 4(A) of Local Law 3~~2~~ of 2014 ("Scope of Controls") is hereby amended to add applications and approvals for "Planned Development Districts (PUDD)" to the list of permit applications and land use approvals for non-residential uses that are covered by the moratorium.

(iv) Section 4(A) of Local Law 3~~2~~ of 2014 ("Scope of Controls") is hereby amended to include "Solar Farms" to the list of non-residential land uses covered by the moratorium by adding a new subdivision: "(viii) Solar Farms".

(v) Section 4(E) of Local Law 3~~2~~ of 2014 ("Scope of Controls") is hereby amended to include a new definition of "Solar Farm" as follows:

> Solar Farm – a large collection of interconnected solar panels that work together to capture sunlight and turn it into electricity on a commercial scale. This definition includes free-standing or ground pole mounted photovoltaic and parabolic solar installations covering one (1) or more acres of land. This definition does not include photovoltaic panels for personal use that are mounted on or affixed to residential, commercial or municipal buildings.

B. Local Law 3~~2~~ of 2014, as amended herein, shall be extended for an additional six (6) month period of time through July 1, 2015.

C. Except as otherwise amended herein, all provisions of Local Law 3~~2~~ of 2014, including but not limited to the hardship variance procedures contained therein, shall remain in effect and be extended for an additional six (6) month period of time through July 1, 2015.

Section III – Severability

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this law which can be given effect without such invalid part or parts.

Section IV. Suspension and Supersession of Other Laws

All local laws in conflict with the provisions of this Local Law are hereby superseded and suspended through July 1, 2015. This Local Law also supersedes, amends, and takes precedence over any inconsistent provisions of New York Town Law under the Town's Municipal Home Rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3), §10(1)(ii)(a)(14), and §22. In particular, this Local Law supersedes any inconsistent provisions of New York Town Law §267, §267-a, §267-b, §274-a, §274-b, §276 and §277 for the purpose of vesting the Town Board of the Town of Schoharie with the authority to accept, hear, process and determine applications for variances from this Local Law.

Section V - Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State in accordance with the Municipal Home Rule Law of the State of New York.