

Local Law Filing

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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 Schaghticoke

FILED
STATE RECORDS

JAN 16 2014

Local Law No. 2 of the year 2014

A local law Amending the Zoning Law of the Town of Schaghticoke
(Insert Title)

DEPARTMENT OF STATE

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

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Schaghticoke as follows:

SECTION 1. PURPOSE AND INTENT

In 2004 and 2005 the Town of Schaghticoke adopted a Comprehensive Plan and enacted an updated Zoning Law. Since that time, the Town Board has made minor changes to the Zoning Law in response to specific requests or concerns. The Town Board also requested that the Code Enforcement Officers, Town Attorney, Zoning Board of Appeals and Planning Board review the Zoning Law and make recommendations for any necessary or desired changes. A number of suggestions were collected and a Zoning Advisory Committee (ZAC) was established consisting of the Town Supervisor, Chairman of the Planning Board, Code Enforcement Officers, Town Attorney and members of the Planning Board. The ZAC reviewed and evaluated the various recommendations and suggestions and compiled this Zoning Amendment to implement certain of the recommendations.

SECTION 2. AUTHORITY

This local law is enacted pursuant to the provisions of section 10 of the Municipal Home Rule Law and Town of Schaghticoke Zoning Law Article XII.

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

SECTION 3. ZONING AMENDMENTS

A. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section V (Supplementary Regulations) Subsection K (Development Near Streams and Wetlands)(pp. 50-51) in its entirety and replacing it with the following text:

In order to preserve the open character along streams for environmental and ecological reasons, all development proposed within one hundred (100) feet of the normal streambank of the Hudson River, the Hoosic River, the Tomhannock Creek, the Deepkill Creek, within one hundred (100) feet of any stream shown on the map entitled "Flood Fringe Overlay Zone" or within one hundred (100) feet of the boundary of a freshwater wetland as mapped by the New York State Department of Environmental Conservation, shall be prohibited.

B. The Zoning Law of the Town of Schaghticoke is hereby amended by adding the following after Section III (Use Regulations) Subsection A (Schedule of Use Regulations)(p. 13):

B. LIMITATIONS ON PRINCIPAL USES More than one residence or dwelling is permitted upon a lot upon issuance of a Special Use Permit and compliance with these regulations and the subdivision regulations.

C. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section VI (Special Use Permits) Subsection D (Application Procedure) Subsection 10 (Decisions)(p. 103) in its entirety and replacing it with the following text:

10. Decisions. Every decision of the Planning Board with respect to a Special Use Permit application shall be by resolution, fully stating the decision including any conditions attached thereto. Each such decision shall be filed in the office of the Building Inspector and Town Clerk and mailed to the applicant.

D. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section VI (Special Use Permits) Subsection F (Expiration of Special Use Permit) (p. 104) in its entirety and replacing it with the following text:

EXPIRATION OF SPECIAL USE PERMIT. A Special Use Permit shall be deemed to authorize only one particular Special Use, and shall expire if the Special Use Permit is not commenced and diligently pursued within eighteen (18) months of the date of Special Use Permit issuance or ceases for more than twenty-four (24) months for any reason. Any request for an extension of a Special Use Permit that has not been commenced must be made in writing and submitted to the Planning Board prior to the passage of eighteen months (18) from the date of issuance of the Special Use Permit.

- E. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section VII (Site Plan Review) Subsection L (Expiration of Site Plan Approval) (p. 112) in its entirety and replacing it with the following text:

EXPIRATION OF SITE PLAN APPROVAL. Unless construction is commenced and is diligently pursued within twelve (12) months from the date of Planning Board approval, a Final Site Plan approval will become null and void. Upon application in writing to the Planning Board prior to the expiration of the twelve (12) month period, the Planning Board may extend the Site Plan Approval for one additional twelve (12) month period.

- F. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section XI (Zoning Board of Appeals) Subsection C (Procedure) Subsection 8 (Expiration of Approval) (p. 136) in its entirety and replacing it with the following text:

Expiration of Approval. Unless construction or use is commenced and diligently prosecuted within twelve (12) calendar months of the date of the granting of a variance, such variance shall become null and void. Any request for an extension of a variance that has not been commenced must be made in writing and submitted to the Zoning Board of Appeals prior to the passage of twelve months (12) from the date of issuance of the variance.

- G. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section XI (Zoning Board of Appeals) Subsection B (Powers and Duties) Subsection 2 (Variances) Subsection a (Use Variance) (pp. 133-134) in its entirety and replacing it with the following text:

Use Variance. An authorization by the Zoning Board of Appeals that allows a specified use in a zone district including restricted locations on the lot or within the structure in which the specified use is not allowed by this Local Law. In order to qualify for a use

variance, an applicant must provide evidence for the record that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular District where the property is located:

- 1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- 2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the District or neighborhood;
- 3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- 4) that the alleged hardship has not been self-created.

The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

H. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section XI (Zoning Board of Appeals) Subsection B (Powers and Duties) Subsection 2 (Variances) Subsection b (Area Variance) (p. 134) in its entirety and replacing it with the following text:

Area variance. An authorization by the Zoning Board of Appeals that allows a departure from area requirements of this Local Law. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

- 1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- 2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- 3) whether the requested area variance is substantial;

4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

I. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section XI (Zoning Board of Appeals) Subsection C (Procedure) Subsection 3 (Public Notice and Hearing) Subsection c. (No Caption Provided) (p. 135) in its entirety and replacing it with the following text:

In such cases as deemed necessary or advisable by the Board of Appeals and upon motion by the Board of Appeals, by requiring the Secretary/Clerk of the Board of Appeals to transmit to the Chairman of the Planning Board a copy of any appeal for a variance together with a copy of the notice of such hearing at least twenty (20) calendar days prior to the date thereof. The Board of Appeals shall request that the Planning Board submit to the Board of Appeals an advisory opinion prior to the date of such hearing. Upon failure of the Planning Board to submit such report, said Board shall be deemed to have recommended approval of the application or appeal.

J. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section VII (Site Plan Review) Subsection C (Planning Board Review of Preliminary Site Plan) Subsection 3 (Public Hearing) (p. 109) in its entirety and replacing it with the following text:

The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within sixty-two (62) calendar days of the receipt of the application for preliminary site plan approval and shall be advertised in the official newspaper of the Town at least five (5) calendar days prior to the public hearing.

In addition, the Secretary/Clerk of the Planning Board shall provide notice at least five (5) calendar days prior to the date thereof of the substance of every application for a site plan together with a notice of the hearing thereon by mailing such to the owners of all property

abutting or adjacent to that held by the applicant or to properties within such additional distances as the Planning Board may deem advisable from the boundaries of the land involved in such application. Compliance with this notification procedure shall be certified to by the Secretary/Clerk of the Planning Board.

1) The names of the owners notified shall be taken as such appear on the last completed tax roll of the Town.

2) Provided that there shall have been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with granting or denying of an application.

K. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section VI (Special Use Permits) Subsection D (Application Procedure) Subsection 9 (Public Notice and Hearing) (p. 103) in its entirety and replacing it with the following text:

Public Notice and Hearing. The Planning Board shall fix a time and place for a public hearing on any such Special Use Permit application and shall provide notice at least five (5) day prior to the public hearing in the official newspaper of the Town.

In addition, the Secretary/Clerk of the Planning Board shall provide notice at least five (5) calendar days prior to the date thereof of the substance of every application for a special permit together with a notice of the hearing thereon by mailing such to the owners of all property abutting or adjacent to that held by the applicant or to properties within such additional distances as the Planning Board may deem advisable, from the boundaries of the land involved in such application. Compliance with this notification procedure shall be certified to by the Secretary/Clerk of the Planning Board.

1) The names of the owners notified shall be taken as such appear on the last completed tax roll of the Town.

2) Provided that there shall have been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with granting or denying of an application.

L. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section V (Supplementary Regulations) Subsection Z (Development within Historic District) Subsection 6 (Advisory Board) (p. 84) in its entirety and replacing it with the following text:

Advisory Board - The Planning Board of the Town of Schaghticoke is hereby authorized and empowered to retain, as an historical Advisory Board, architects and other such experts as they deem desirable or necessary, to advise on specific applications.

M. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section V (Supplementary Regulations) Subsection B (Access, Parking and Loading Standards) Subsection 2 (Permitted Accessory Parking) (p. 34) in its entirety and replacing it with the following text:

Permitted Accessory Parking.

a. There is no limitation on the number of agricultural vehicles permitted accessory to farm use.

b. Not more than one commercial vehicle over twenty (20) feet in length may be parked on a residential lot in a RA, R, R40 Residential District or in any Hamlet District.

c. Not more than one unoccupied camping trailer and boat may be stored outside on a residential lot. Such vehicles shall be stored only on that portion of the lot behind the minimum front yard.

N. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section XIV (Interpretation and Application) Subsection C (Publication) and Subsection D (Effective Date) (p. 157) in their entirety.

O. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section V (Supplementary Regulations) Subsection S (Storage on Residential Lots) (p. 68) in its entirety and replacing it with the following text:

Not more than one commercial vehicle in excess of twenty (20) feet in length, nor more than one camping trailer or camper body, nor more than one boat, may be stored outdoors

on a lot in a residential or hamlet district. All such outdoor storage shall occur inconspicuously on that portion of the lot behind the minimum front yard setback and shall not be less than five (5) feet from the nearest lot line.

One export container, no more than forty (40) feet in length may be used for storage as an accessory structure to a principal use on a lot in a residential or hamlet district. The storage container must comply with all applicable setbacks and may not extend into the front yard past the front of the existing structure.

P. The Zoning Law of the Town of Schaghticoke is hereby amended by deleting Section XI (Zoning Board of Appeals) Subsection C (Procedure) Subsection 3 (Public Notice and Hearing) (p. 135) in its entirety and replacing it with the following text:

Public Notice and Hearing. The Board shall fix a time and place for a public hearing on any such appeal or application and shall provide notice as follows:

- a. By publishing at least five (5) day prior to the date of the public hearing a legal notice in the official newspaper of the Town.
- b. The Secretary/Clerk of the Board of Appeals shall provide notice at least five (5) calendar days prior to the date thereof of the substance of every appeal or application with a notice of the hearing thereon by mailing such to the owners of all property abutting or adjacent to that held by the applicant or to properties within such additional distances as the Board of Appeals may deem advisable, from the boundaries of the land involved in such application. Compliance with this notification procedure shall be certified to by the Secretary/Clerk of the Board of Appeals.
 - 1) The names of the owners notified shall be taken as such appear on the last completed tax roll of the Town.
 - 2) Provided that there shall have been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Board of Appeals in connection with granting or denying of an application.

SECTION 4. REPEAL

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

SECTION 5. 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 local law which can be given effect.

SECTION 6. EFFECTIVE DATE

This local law shall take effect immediately upon the filing of such law with the office of the New York Secretary of State in accordance with section 27 of the Municipal Home Rule 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 2014 of the (County)(City)(Town)(Village) of Schaghticoke was duly passed by the Town Board on January 8 2014, 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) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(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) (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.
(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 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

(Seal)

Date: 1/8/2014