

**Version: January 02, 2013**

Village of Oxford  
Local Law No. 1 of the Year 2013

A local law to amend and supplement  
the Village of Oxford Zoning Ordinance adopted January 2, 1973  
(as heretofore amended),  
by:

Establishing a Severability Clause;  
Confirming that any Uses not Expressly Permitted are Prohibited;  
Adding Certain New Definitions, and Changing Certain Existing Definitions; and  
Modifying, Clarifying, and Adding to the Provisions Regarding Variances.

***Be it enacted by the Village Board of the Village of Oxford as follows:***

**Article I. General Provisions**

**Section 1.1. Authority for Adoption**

The Village Board hereby adopts this Local Law pursuant to the authority described at Section 1. of **Appendix A** attached hereto, which **Appendix A** is hereby incorporated and made a part of this Local Law for all purposes by this reference.

**Section 1.2. Findings of Fact**

The Village Board has heretofore made certain findings, determinations, and declarations relative to the matters set forth in this Local Law, and a copy of the text of such findings, determinations, and declarations is set forth at Section 2. of **Appendix A** attached hereto.

**Section 1.3. Purpose & Intent**

The Purposes and Legislative Intent underlying the Village Board's passage of this Local Law are set forth at Section 3. of **Appendix A** attached hereto.

**Section 1.4. Definition of "Existing Zoning Law," this "Local Law," and "this "Law"**

As used in this Local Law, the term "Existing Zoning Law" shall mean and be the Village of Oxford Zoning Ordinance adopted January 2, 1973, as amended to date, including by: Local Law No. 1 of 1976, Local Law No. 5 of 1990, Local Law No. 5 of 1991, Local Law No. 3 of 1994, and Local Law No. 4 of 1994.

As used herein, the term this “Local Law” shall mean and be this Local Law No. 1 of 2013.

As used in Article II of this Local Law, the term “this Law,” “this chapter,” this “Chapter,” “this Zoning Chapter,” and “herein” shall mean, be, and refer to the Existing Zoning Law as amended by this Local Law.

### **Section 1.5. Interpretation**

The statements of purpose, intent and findings are legislatively adopted along with the formal text of the amendments to the Existing Zoning Law effected by this Local Law. They are intended as a legal guide to the administration and interpretation of this Local Law and shall be treated as legislative history.

This Local Law is intended to supersede any provision of the New York State Village Law that is inconsistent herewith.

## **Article II. Amendments of Existing Zoning Law**

### **2.1. Amendments to Article I of the Existing Zoning Law**

**A.** § 293-1 of the Existing Zoning Law is hereby amended so as to delete the text thereof (being the sentence beginning “This chapter shall be known ...”) in the entirety, and to substitute the following text therefor: “This chapter shall be known as the ‘Village of Oxford Zoning Law.’”

**B.** Article I of the Existing Zoning Law is hereby further amended, so as to add the following new § 293-1A thereto, said new § 293-1A to be inserted immediately after the text of § 293-1 of the Existing Zoning Law (as amended above), and immediately prior to the heading and text of § 293-2 of the Existing Zoning Law:

#### **“§ 293-1A. Severability.**

If any word, phrase, sentence, part, section, subsection, or other portion of this Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Village Board hereby declares that it would have enacted this Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.”

## **2.2. Amendments to Article II of the Existing Zoning Law**

**A.** § 293-3 of the Existing Zoning Law is hereby amended so as to delete the text of the present text of Subsection B. thereof (beginning “The word ‘person’ ...”) in the entirety, and to substitute the following text therefor:

“The word “person” means any individual, public or private corporation for profit or not for profit, association, partnership, limited liability company, limited liability partnership, firm, trust, estate, and any other legal entity whatsoever which is recognized by law as the subject of rights and duties.”

**B.** § 293-3 of the Existing Zoning Law is hereby further amended, so as to add the following new Subsection G. thereto, said new Subsection to be inserted immediately after the text of Subsection F. of § 293-3 of the Existing Zoning Law, and immediately prior to the heading and text of § 293-4 of the Existing Zoning Law:

“From and after the effective date of Oxford Local Law No. 1 of the Year 2013, the words “special exception,” “Special exception,” and “Special Exception” are hereby deleted everywhere they appear in this chapter, and the words “special permit,” “Special permit,” and “Special Permit” are hereby respectively substituted therefor.”

**C.** § 293-4 of the Existing Zoning Law is hereby amended so as to delete in the entirety the present first sentence thereof (beginning “As used in this chapter, the following terms...”), and to substitute the following text therefor:

“Except where specifically defined or otherwise specifically provided herein, all words used in this Law shall carry their customary dictionary meanings. Where the precise meaning of a word is in doubt by any board or official, the Board of Appeals shall make a determination in accordance with the purpose and intent of this Law and the Comprehensive Plan. For purposes of this Law, unless otherwise specifically provided the following terms and words shall have the meanings set forth below:”

**D.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following definition of “Below-Regulatory Concern” therein, said definition to be inserted immediately after the definition of “Bed and Breakfast” and immediately before the present definition of “Building”:

“BELOW-REGULATORY CONCERN -- Radioactive material in a quantity or of a level that is distinguishable from background (as that phrase is defined at 10 CFR §20.1003), but which is below the regulation threshold established by any regulatory agency otherwise having jurisdiction over such material in the Village.”

**E.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following text regarding the terms “Commercial; Commercial Uses” therein, said text to be inserted immediately after the definition of “Cellar” and immediately before the definition of “Drive-in Restaurant or Refreshment Stand”:

“COMMERCIAL; COMMERCIAL USES -- Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms “commercial,” “commercial uses,” or any variation thereof, be construed to mean, be, include, or authorize any Land Application Facility, Natural Gas And/Or Petroleum Exploration Activities, 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 Storage of Natural Gas.”

**F.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following definition of “Comprehensive Plan” therein, said definition to be inserted immediately after the (newly added) text regarding the term “Commercial Excavation” therein and immediately before the present definition of “Drive-in Restaurant or Refreshment Stand”:

“COMPREHENSIVE PLAN -- any document, styled comprehensive or master plan or otherwise, adopted by the Village Board for the protection, enhancement, growth, and development of the Village, immediate as well as long-range, specifically pursuant to § 7-722 of the NYS Village Law, together with all other materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material, adopted by the Village Board, that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the protection, enhancement, growth and development of the Village, immediate as well as long-range, as the same may from time to time be amended, updated, and supplemented, including without limitation by planning policy statements, goals, and standards adopted by the Village Board.”

**G.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following text regarding the terms “Industrial; Industrial Facilities; Industrial Uses; Industry” therein, said text to be inserted immediately after the definition of “Hotel or Motel” and immediately before the present definition of “Junkyard”:

“INDUSTRIAL; INDUSTRIAL ESTABLISHMENT; INDUSTRIAL FACILITIES; INDUSTRIAL USES; INDUSTRY -- Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms “industrial,” “industrial establishment,” “industrial facilities,” “industrial uses,” “industry,” or any variation thereof contained in this Law be construed to mean, be, include, or authorize any Land Application Facility, Natural Gas And/Or Petroleum Exploration Activities, Natural Gas And/Or Petroleum Extraction Activities, Natural Gas And/Or Petroleum Exploration, Extraction Or Production Waste 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 Storage of Natural Gas.”

**H.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following definition of “Injection Well” therein, said text to be inserted immediately after the newly-added text regarding the terms “Industrial; Industrial Establishment; Industrial Facilities; Industrial Uses; Industry” and immediately before the definition of “Junkyard”:

“INJECTION WELL -- A bored, drilled or driven shaft whose depth is greater than the largest surface dimension, or a dug hole whose depth is greater than the largest surface dimension of the hole, through which fluids (which may or may not include semi-solids) are injected into the subsurface and less than ninety (90) percent of such fluids return to the surface within a period of ninety (90) days.”

**I.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following definition of “Land Application Facility” therein, said text to be inserted immediately after the definition of “Junkyard” and immediately before the definition of “Laundrette”:

“LAND APPLICATION FACILITY -- A site where any Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes are applied to the soil surface or injected into the upper layer of the soil.”

**J.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following text regarding the terms “Manufacturing; Manufacturing Facilities; Manufacturing Uses” therein, said text to be inserted immediately after the definition of “Lot Width” and immediately before the present definition of “Medical Clinic”:

“MANUFACTURING; MANUFACTURING FACILITIES; MANUFACTURING USES -- Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms “manufacturing,” “manufacturing facilities,” “manufacturing uses,” or any variation thereof contained in this Law be construed to mean, be, include, or authorize any Land Application Facility, Natural Gas And/Or Petroleum Exploration Activities, Natural Gas And/Or Petroleum Extraction Activities, Natural Gas And/Or Petroleum Exploration, Extraction Or Production Waste 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 Storage of Natural Gas.”

**K.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following definitions of (i) “Natural Gas,” (ii) “Natural Gas and/or Petroleum Exploration Activities,” (iii) “Natural Gas and/or Petroleum Extraction Activities,” (iv) “Natural Gas and/or Petroleum Exploration, Extraction or Production Wastes,” (v) “Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility,” (vi) “Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump,” (vii) “Natural Gas Compression Facility,” and (viii) “Natural Gas Processing Facility” therein, said definitions to be respectively inserted immediately after the definition of “Mobile Home Court” and immediately before the definition of “Nonconforming Building or Use”:

“NATURAL GAS -- Methane and any gaseous substance, either combustible or non-

combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

NATURAL GAS AND/OR PETROLEUM EXPLORATION ACTIVITIES -- Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, *but only to the extent* that such activities involve or employ core, rotary, or any other type of drilling or otherwise making any penetration or excavation of any land or water surface in the search for and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

NATURAL GAS AND/OR PETROLEUM EXTRACTION ACTIVITIES -- The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons, including without limitation any and all forms of shale fracturing.

NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES -- Any of the following in any form, and *whether or not* such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of "industrial waste," "hazardous," or "toxic," and whether or not such substances are generally characterized as waste: (a) below-regulatory concern radioactive material, or any radioactive material which is not below-regulatory concern, but which is in fact not being regulated by the regulatory agency otherwise having jurisdiction over such material in the Village, whether naturally occurring or otherwise, in any case relating to, arising in connection with, or produced by or incidental to the exploration for, the extraction or production of, or the processing, treatment, or transportation of, natural gas, petroleum, or any related hydrocarbons; (b) natural gas or petroleum drilling fluids; (c) natural gas or petroleum exploration, drilling, production or processing wastes; (d) natural gas or petroleum drilling treatment wastes (such as oils, frac fluids, produced water, brine, flowback, sediment and/or any other liquid or semi-liquid material); (e) any chemical, waste oil, waste emulsified oil, mud, or sediment that was used or produced in the drilling, development, transportation, processing or refining of natural gas or petroleum; (f) soil contaminated in the drilling, transportation, processing or refining of natural gas or petroleum; (g) drill cuttings from natural gas or petroleum wells; or (h) any other wastes associated with the exploration, drilling, production or treatment of natural gas or petroleum. This definition specifically intends to include some wastes that may otherwise be classified as "solid wastes which are not hazardous wastes" under 40 C.F.R. § 261.4(b). The definition of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes *does not include* (i) recognizable and non-recognizable food wastes, or (ii) waste generated by farm use.

**NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES DISPOSAL/STORAGE FACILITY** -- Any of the following: (a) tanks of any construction (metal, fiberglass, concrete, etc.); (b) impoundments; (c) pits; (d) evaporation ponds; or (e) other facilities, in any case used for the storage or treatment of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes that: (i) are being held for initial use, (ii) have been used and are being held for subsequent reuse or recycling, (iii) are being held for treatment, or (iv) are being held for storage.

**NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES DUMP** -- Land upon which Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes, or their residue or constituents before or after treatment, are deposited, disposed, discharged, injected, placed, buried or discarded, without any intention of further use.

**NATURAL GAS COMPRESSION FACILITY** -- Those facilities or combination of facilities that move natural gas or petroleum from production fields or natural gas processing facilities in pipelines or into storage; the term shall include equipment for liquids separation, natural gas dehydration, and tanks for the storage of waste liquids and hydrocarbon liquids.

**NATURAL GAS PROCESSING FACILITY** -- Those facilities that separate and recover natural gas liquids (NGLs) and/or other non-methane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or stripping gas, cooking and dehydration, residual refinement, treating or removing oil or condensate, removing water, separating NGLs, removing sulfur or carbon dioxide, fractionation of NGLs, or the capture of CO<sub>2</sub> separated from natural gas streams.

**L.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to delete from the second sentence of the definition of “Planned Development District” (being the sentence beginning “A planned development district may ...”) the word “industrial,” which presently appears between the words “commercial” and “recreational,” and to substitute the word “manufacturing” therefor.

**M.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following definition of “Public Utility; Public Utility Station” therein, said text to be inserted immediately after the definition of “Planned Development District” and immediately before the definition of “Sign”:

**“PUBLIC UTILITY; PUBLIC UTILITY STATION** -- An entity which operates as a monopoly, and whose rates charged to customers are established by a utility commission. A public utility station, structure, or use is a facility, structure, or use which is operated by a public utility, and which provides electric, gas, steam, CATV, telephone or other communication service, water or sewerage directly to the general public. Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms “public utility,” “public utility station,” or any

variation thereof contained in this Law be construed to mean, be, include, or authorize a Natural Gas Compression Facility, or a Natural Gas Processing Facility.”

**N.** § 293-4 of the Existing Zoning Law is hereby further amended so as to insert the following definitions of (i) “Radiation,” and (ii) “Radioactive Material” therein, said definitions to be respectively inserted immediately after the (newly added) definition of “Public Utility; Public Utility Station” and immediately before the definition of “Sign”:

“RADIATION -- The spontaneous emission of particles (alpha, beta, neutrons) or photons (gamma) from the nucleus of unstable atoms as a result of radioactive decay.

RADIOACTIVE MATERIAL -- Material in any form that emits radiation. This definition specifically includes NORM (naturally occurring radioactive material), but only if such naturally occurring material has been moved from its naturally occurring location through a mechanical or other man-made process. All such material is “radioactive material” for purposes hereof, whether or not it is otherwise exempt from licensing and regulatory control pursuant to the NYS Department of Labor, the US Nuclear Regulatory Commission, the US Environmental Protection Agency, the US Department of Energy, the US Department of Transportation, or any other regulatory agency.”

**O.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to delete the defined term and definition of “Special Exception” in the entirety, and to substitute the following text therefor:

“SPECIAL PERMIT USE; SPECIAL PERMIT: -- A use that because of its unique characteristics requires individual consideration through a procedure of review by the Board of Appeals, in order to determine whether a Special Use Permit should be granted, conditionally granted, or denied in accordance with § 293-46 of this Law.”

**P.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following definition of “Subsurface” therein, said text to be inserted immediately after the definition of “Structural Alteration” and immediately before the present definition of “Theater, Outdoor”:

“SUBSURFACE -- Below the surface of the earth, or of a body of water, as the context may require.”

**Q.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to delete the defined term and definition of “Theater, Outdoor” in the entirety.

**R.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following definitions of (i) “Underground Injection,” and (ii) “Underground Natural Gas Storage” therein, said definitions to be respectively inserted immediately after the definition of “Trailer Camp” and immediately before the present definition of “Variance”:

“UNDERGROUND INJECTION -- Subsurface emplacement of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes, including emplacement by



or into an Injection Well.”

**UNDERGROUND NATURAL GAS STORAGE** -- Subsurface storage, including in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location, whether for the purpose of load balancing the production of natural gas or for any other reason, including without limitation short-term, long-term, or intermittent storage for product quality, processing, or transportation purposes, or because of market conditions. Without limitation, this term includes compression and dehydration facilities, and associated pipelines.”

**S.** § 293-4 of the Existing Zoning Law is hereby further amended, so as: (i) to delete the present heading and definition of “Variance” in the entirety, and (ii) to insert the following respective definitions of “Variance,” “Variance, Area,” and “Variance, Use” in substitution thereof:

“**VARIANCE** – An area variance or a use variance, as the context may admit.

**VARIANCE, AREA** -- The authorization by the Board of Appeals for the use of land in a manner that is not allowed by the dimensional requirements of the applicable zoning regulations.

**VARIANCE, USE** -- The authorization by the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.”

**T.** § 293-4 of the Existing Zoning Law is hereby further amended, so as to insert the following definition of “Village Board” therein, said text to be inserted immediately after the (newly added) definition of “Variance, Use” and immediately before the definition of “Yard, Front”:

“**VILLAGE BOARD** – The Village Board of Trustees of the Village of Oxford, New York.”

### **2.3. Amendments to Article III of the Existing Zoning Law**

**A.** Article III of the Existing Zoning Law is hereby amended so as to replace the present title of such Article (“Districts and Boundaries”) with the words “Districts and Boundaries; Any Use Not Specifically Permitted Is Prohibited.”

**B.** § 293-5 of the Existing Zoning Law is hereby amended so as to delete in the entirety present Section B. thereof (beginning “In addition, any of the ...”), and to substitute the following text therefor: “B. In addition, from time to time Planned Development Districts may be established subject to and in compliance with the provisions of this chapter.”

**C.** Article III of the Existing Zoning Law is hereby further amended, so as to delete the text presently below the heading of § 293-6 (“Zoning Map”) thereof (which begins “The location and boundaries of said districts ...”) in the entirety, and to substitute the following text therefor:

“The boundaries of the zoning districts are shown on the map entitled “Zoning Map of

the Village of Oxford,” which is hereby declared to be a part of this Law. The official Zoning Map shall be kept on file in the office of the Village Clerk. Unofficial reductions of this map shall be for reference purposes only. Changes may be made in district boundaries only by a zoning amendment adopted by the Village Board. Any such changes shall be noted by the Village Clerk on the official Zoning Map promptly after the Village Board adopts such an amendment. In the event of a conflict between the Zoning Map in the Village Clerk’s office and the specific local law adopting a Zoning Map amendment, the specific local law shall be the controlling authority as to the current zoning status of lands, structures and uses in the Village.”

**D.** § 293-8 of the Existing Zoning Law is hereby amended so as to replace the present title of such Section (“General Regulations”) with the words “General Regulations; Any Use Not Specifically Permitted Is Prohibited.”

**E.** § 293-8 of the Existing Zoning Law is hereby amended so as to delete in the entirety the text of present Section A. thereof (beginning “No building shall be erected and no existing ... ”), and to substitute the following text therefor:

“Any use not specifically set forth as a permitted use (as of right, or upon special permit, as the context may admit) in any district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district.”

**F.** § 293-8 of the Existing Zoning Law is hereby amended so as to delete in the entirety the text of present Section B. thereof (beginning “No building shall be erected, reconstructed ... ”), and to substitute the following text therefor:

“No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved or altered, unless in conformity with the regulations herein specified for the district in which it is located, and no building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, or side yards, than is specified herein for the district in which such building is located.”

**G.** § 293-8 of the Existing Zoning Law is hereby amended so as to delete in the entirety the text of present Section C. thereof (beginning “No building shall be erected, no existing building ... ”), and to substitute the following text therefor:

“Neither the prohibitions set forth above in this § 293-8, nor any other provisions of this Law, are intended, and so shall not be construed, to (x) prevent or prohibit the right to use roadways in commerce or otherwise for travel; (y) prevent or prohibit the transmission of natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supplying natural gas to residents of or buildings located in the Village; or (z) prevent or prohibit the incidental or normal sale, storage, or use of

lubricating oil, heating oil, gasoline, diesel fuel, kerosene, or propane in connection with legal farm use, residential, business, commercial, and other uses within the Village.”

## **2.4. Amendments to Article IV of the Existing Zoning Law**

**A.** Article IV of the Existing Zoning Law is hereby amended so as to replace the present title of such Article (“Use Regulations”) with the words “Zoning District Uses; Any Use Not Specifically Permitted Is Prohibited.”

**B.** Article IV of the Existing Zoning Law is hereby further amended, so as to insert the following text immediately following the title of said Article (“Zoning District Uses; Any Use Not Specifically Permitted Is Prohibited”), and immediately prior to the number and heading of § 293-9 of the Existing Zoning Law:

“Any use not specifically set forth as a permitted use (as of right or upon special permit, as the context may admit) in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district.”

**C.** § 293-10 of the Existing Zoning Law is hereby amended so as to delete the words “as a special exception” from Section B. thereof (beginning “Uses which may be ...”), and to substitute the words “upon issuance of a special permit” therefor.

**D.** § 293-11 of the Existing Zoning Law is hereby amended so as to delete the words “as a special exception” from Section B. thereof (beginning “Uses which may be ...”), and to substitute the words “upon issuance of a special permit” therefor.

**E.** § 293-14 of the Existing Zoning Law is hereby amended so as to delete the words “as a special exception” from Section B.(2) thereof (beginning “Uses which may be ...”), and to substitute the words “upon issuance of a special permit” therefor.

**F.** § 293-15 of the Existing Zoning Law is hereby amended so as to delete the words “as a special exception” from Section B.(2) thereof (beginning “Uses which may be ...”), and to substitute the words “upon issuance of a special permit” therefor.

**G.** § 293-16 of the Existing Zoning Law is hereby amended so as to delete the words “as a special exception” from Section B.(2) thereof (beginning “Uses which may be ...”), and to substitute the words “upon issuance of a special permit” therefor.

**H.** § 293-18 of the Existing Zoning Law is hereby amended so as to delete the words “as a special exception” from Section B.(2) thereof (beginning “Uses which may be ...”), and to substitute the words “upon issuance of a special permit” therefor.

## **2.5. Amendment to the Existing Zoning Law to Create New Article IVA**

**A.** The Existing Zoning Law is hereby further amended, so as to add a new Article IVA thereto as set forth below, said new Article IVA and the title thereof to be inserted immediately following the end of the text of subsection B.(4) of § 293-19 of the Existing Zoning Law, and immediately preceding the text and heading of Article V ('Supplemental Regulations') of the Existing Zoning Law:

**“ARTICLE IVA  
Prohibition Against  
Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes.”**

**B.** The Existing Zoning Law is hereby further amended, so as to insert the following (new) § 293-19A of (newly added) Article IVA, said new Section to be inserted immediately after the heading of (newly added) Article IVA and immediately preceding the heading and title of Article V ('Supplemental Regulations') of the Existing Zoning Law:

**§ 293-19A. Prohibition against Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes.**

The Village of Oxford hereby exercises its authority and right under NY ECL § 27-0711 to adopt a local law that is consistent with the Environmental Conservation Law Article 27, such consistency demonstrated by the fact that this Local Law complies “with at least the minimum applicable requirements” set forth in such statute, and the rules and regulations promulgated pursuant to said Article 27.

It shall be unlawful for any person to produce, store, inject, discard, discharge, dispose release, or maintain, or to suffer, cause or permit to be produced, stored, injected, discarded, discharged, disposed, released, or maintained, anywhere within the Village, any Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes.”

## **2.6. Amendments to Article V of the Existing Zoning Law**

**A.** Subsection B. of § 293-25 of the Existing Zoning Law is hereby amended so as to add the following text as the (new) final sentence of said Subsection B.:

“The foregoing provision of this Subsection B. is not intended and shall not be construed to authorize any land use that is not otherwise a legal use of land within the Village.”

**B.** Subsection D. of § 293-26 of the Existing Zoning Law is hereby amended so as to delete the word “approve” from the first sentence thereof (which begins “In any Planned ...”), and to substitute the words “approve, conditionally approve, or disapprove” therefor.

**C.** The first sentence of § 293-28 of the Existing Zoning Law (which begins “Off-street loading facilities ...”) is hereby amended so as to insert the words “legally permitted” between the present

words “each” and “commercial”.

## **2.7. Amendments to Article VI of the Existing Zoning Law**

Article VI of the Existing Zoning Law is hereby amended: (i) so as to replace the present title of such Article (“Nonconforming Uses”) with the words “Nonconforming Uses; Pre-Existing, Legal Non-Conforming Natural Gas And/Or Petroleum Extraction Activities”; and (ii) so as to insert the following new § 293-30A., said new § 293-30A. to be inserted immediately following the text of present Subsection G. of § 293-30., and immediately prior to Article VII (‘Administration and Enforcement’)of the Existing Zoning Law:

### **“§ 293-30A. Pre-existing, legal non-conforming natural gas and/or petroleum extraction activities.**

Notwithstanding any provision of this chapter to the contrary, any Natural Gas And/Or Petroleum Extraction Activities that are being conducted in the Village as of the effective date of this § 293-30A. shall be subject to the following:

a.1. If, as of the effective date of this § 293-30A., substantive Natural Gas And/Or Petroleum Extraction Activities are occurring in the Village, and those activities are in all respects being conducted in accordance with all applicable laws and regulations, including without limitation the possession of valid, non-revoked permits for all matters for which permits are required, and including compliance with each, any, and all permit conditions, as are or may be required by the New York State Department of Environmental Conservation (“DEC”) and/or all other regulating local, state, and federal governments, bureaus, or agencies, then and only then such Activity shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of Clauses b. and c. of this § 293-30A.

2. Natural Gas And/Or Petroleum Extraction Activities that are being conducted in the Village as of the effective date of this Local Law and which do not qualify for treatment under the preceding Clause a. 1. of this § 293-30A. shall not be grandfathered (or be permitted to continue or deemed lawful pre-existing uses).

b. Upon the depletion, closing, or reclamation of any well which is allowed to remain in operation after the effective date of this Local Law by virtue of Clause a. 1. of this § 293-30A., or upon any other substantive cessation of Natural Gas And/Or Petroleum Extraction Activities for a period of more than twelve (12) months, then and in either of such events the pre-existing and/or non-conforming use status (and any related ‘grandfathering rights’) of or relating to such Activity shall terminate.

c. Notwithstanding any provision hereof to the contrary, the pre-existing, non-conforming status conferred and recognized by Clause a. 1. of this § 293-30A.

is not intended, and shall not be construed, to authorize or grandfather any Natural Gas And/Or Petroleum Extraction Activities extending beyond whatever well bore is authorized in any DEC permit in existence as of the effective date of this Local Law. Any expansion or attempted or purported expansion of such well, whether as to its production, depth, horizon(s) or otherwise, shall not be grandfathered under Clause a. 1. of this § 293-30A. “

## **2.8. Amendments to Article VIII of the Existing Zoning Law**

**A.** The text of Clause (2) of Subsection A. of § 293-45 of the Existing Zoning Law (which begins “To grant a variance ...”) is hereby deleted in the entirety, and the following sentence is substituted therefor:

“To consider and to grant, grant with conditions, and/or deny applications for variances.”

**B.** The text of Subsection B. of § 293-45 of the Existing Zoning Law (which begins “Original jurisdiction. The granting of special exceptions ...”) is hereby deleted in the entirety, and the following sentence is substituted therefor:

“To consider and to grant, grant with conditions, and/or deny applications for special permits.”

**C.** The text of Subsection D. of § 293-45 of the Existing Zoning Law (which begins “Variance.”) is hereby deleted in the entirety, and the following text is substituted therefor:

“Variances. On appeal from the decision or determination of the Zoning Officer, or otherwise as contemplated by this Law, to grant use variances and area variances, subject to and upon the terms and conditions set forth herein.

### **a. Use Variances**

1. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that otherwise applicable zoning regulations and restrictions have caused unnecessary hardship as set forth herein.

(i) **Unnecessary Hardship.** In order to prove the existence of an unnecessary hardship for purposes hereof the applicant is required to clearly demonstrate to the Board of Appeals’ satisfaction that, with respect to every permitted use under the zoning regulations for the particular district where the property is located, each and every of the following four criteria is satisfied: (w) the applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (x) 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 involved; (y) that the

requested use variance, if granted, will not alter the essential character of the neighborhood; and (z) that the alleged hardship has not been self-created.

- (ii) Reasonable Rate of Return. In evaluating whether the applicant can realize a reasonable rate of return, the Board of Appeals shall examine whether the entire original or expanded property holdings of the applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed project). No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the applicant has clearly demonstrated, by detailed, written “dollar and cents” proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) and for each and every permitted use in the district (including those uses permitted by special use permit).
- (iii) Unique Hardship. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.
- (iv) Essential Character of the Neighborhood. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the proposed project will not alter the essential character of the neighborhood. In making its determination of whether the proposed project will alter the essential character of the neighborhood, the Board of Appeals shall take into account factors that are of vital importance to the citizens of the Village including without limitation: (a) the rural residential, agricultural and historic character of the Village, (b) its irreplaceable recreation and tourism sites, (c) the extent of hazard to life, limb or property that may result from the proposed project, (d) health impacts, (e) the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances, (f) the impact on property values, and (g) whether the applicant will use a style of development that will result in degradation to the air quality, water quality or scenic and natural resources of the Village. In order to find that the proposed project does not alter the essential character of the neighborhood, the Board of Appeals shall interpret the public interest in said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following: (x) pose a threat to the public safety, including public health, water quality or air quality, (y) cause an extraordinary public expense, or (z) create a nuisance.
- (v) Self-Created Hardship. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the alleged hardship was not self-created. The Board of Appeals may find that the applicant suffers from a self-created hardship in the event that the Board finds that (x) the applicant’s inability to obtain a reasonable return on the property as a whole results from having paid too much or from a poor investment

decision; (y) the applicant previously divided the property and is left with only a portion which suffers from some unique condition for which relief is sought and which did not apply to the parcel as a whole; or (z) when the applicant purchased the property, the applicant knew or should have known the property was subject to the zoning restrictions.

2. In addition to the application requirements from time to time established pursuant to law and this Law, an application for any use variance shall contain a typewritten narrative explaining what the application is for, and how the project meets or exceeds all of the criteria for a use variance, including:

- (a) **Competent Financial Evidence.** Competent written financial evidence containing reasonable written specification of, and back-up (confirmation) for, the nature and factual particulars of such claim, and articulating the basis for the applicant's claim, and including, at a minimum (as to the entire parcel of which the proposed project is a part): (i) date of acquisition; (ii) the purchase price; (iii) present value of the property; (iv) the amount of real estate taxes; (v) the amount of mortgages or liens and other expenses; (vi) the asking price for the property when it had been offered for sale; (vii) the costs of demolishing any existing structures on the property; (viii) cost of erecting a new building(s) for each and every permitted use in the zoning district (including uses allowed by special use permit); (ix) efforts to market the property; and (x) a schedule of all other property in common ownership at either the date of the enactment of this law or thereafter.
- (b) Competent written financial evidence must include written "dollars and cents proof" such as appraisals, economic studies, and any other written evidence supporting the applicant's contention that the desired relief is appropriate, including appraisals relating to any alleged diminution of all or substantially all of the fair market value of property. For the purposes of this Law, common ownership means all other interests in property either located within the Village or contiguous to the Village that is held by the any of the applicants (if more than one), whether such ownership is of a legal or equitable interest, in whole or in part, contiguous or not, and whether such property interest is held by any of the applicants through a legal or equitable interest in a(nother) corporation, partnership, trust, business, entity, association, fund, joint venture, or individually.
- (c) **Unique Nature of the Property.** The applicant must provide evidence demonstrating the unique nature of the parcel as a whole. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded or in disrepair or the fact that the property is then unimproved shall not be deemed to make the plight of the property unique or to contribute thereto. Exceptional topographic conditions are an example of a factor demonstrating the unique nature of the property.



(d) Alteration of the Essential Character of the Neighborhood. The applicant must demonstrate that the proposed project will not adversely change the essential character of the neighborhood with regard to physical, economic, social or environmental elements. Adverse impacts to the essential character of the neighborhood include, but are not limited to, decreased quality or increased quantity of stormwater runoff, increased soil erosion, increased traffic congestion, decreased road quality, impairment of the scenic or rural character of roads, increased noise, dust, odor and/or glare, reduced wildlife habitat, decreased air quality, decreased water quality, impairment of the viewshed, creation of solid wastes, negative impacts on sustainability efforts, increased social costs, increased emergency response times, negative impacts to public infrastructure, decreased property values, and negative impacts on the health of area residents.

(e) Hardship Not Self-Created. In order to show that the hardship is not self-created, the applicant must demonstrate that either (i) when the property was purchased the zoning restrictions from which a use variance is now sought were not in existence or did not otherwise apply, or (ii) some other change has occurred since the applicant's purchase which makes the use non-conforming, as long as that change was not caused by the applicant.

3. The Board of Appeals, in the granting of use variances, shall grant only the minimum variance that it shall deem necessary and adequate to allow an economically beneficial use of the property, and at the same time preserve and protect the essential character of the neighborhood and the health, safety and welfare of the community.
4. The Board of Appeals, in the granting of use variances, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed project. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact such use variance may have on the neighborhood or community. Such conditions may include, but are not limited to, landscaping, lighting, access and egress, signs, screening, architectural features, location and layout of buildings, limitations upon the use or characteristics of the use which are reasonably related to the public health, safety and general welfare and as may be necessary to carry out the intent of this Law. If the applicant refuses to accept such requirements and conditions, the use variance shall be denied.

b. Area Variances.

1. In making a determination whether to grant, grant conditionally, or deny an application for an area variance, the Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, and balance this benefit against the detriment to the health, safety and welfare of the neighborhood or community by making such grant. In making such determination

the Board shall consider each of the following factors: (a) 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 area variance; (b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (c) whether the requested area variance is substantial; (d) whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (e) whether the alleged difficulty was self-created. (In contrast to the context of a *use* variance, in the context of an *area* variance application whether or not the alleged difficulty was self-created shall be relevant to the decision of the Board of Zoning Appeals but a finding that the difficulty was self-created shall not in and of itself preclude the granting of the area variance.)

2. The Board of Appeals, in the granting of area variances, shall grant the minimum area 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.

3. In addition to the application requirements from time to time established pursuant to law and this Law, applications for an area variance shall contain a typewritten narrative explaining what the application is for, and how the project meets or exceeds all of the criteria for an area variance.

4. The Board of Appeals shall, in the granting of area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact such area variance may have on the neighborhood or community. If the applicant refuses to accept such requirements and conditions, the area variance shall be denied.”

**D.** § 293-46 of the Existing Zoning Law is hereby amended so as to replace the present title of such Section with the words “Special Permit Standards; No Junkyards.”

**E.** The present first sentence of § 293-46 of the Existing Zoning Law (which begins “Special exceptions to be ...”) is hereby deleted in the entirety, and the following text is substituted therefor:

“No use shall be considered to be or to be allowed as a special permit use except and unless such use is specified as being a special permit use (as to the district in question) in §§ 293-10.B., 293-11.B., 293-14.B.(2), 293-15.B.(2), 293-16.B.(2), or 293-18.B.(2) of this Law. In addition to any other applicable regulations and requirements, the following standards shall apply with respect to the special permit uses indicated below:”

F. The heading and text of Subsection D. of § 293-46 of the Existing Zoning Law (which begins “Commercial excavation....”) is hereby deleted in the entirety, and the following text is substituted therefor: “[Intentionally omitted.]”

G. The second sentence of Subsection E. of § 293-46 of the Existing Zoning Law (which begins “Any such use existing at the time....”) is hereby deleted in the entirety.

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**2.9. Severability**

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Village Board of the Village hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

**2.10. Effective Date of this Local Law**

This Local Law shall be effective upon filing with the office of the Secretary of State, and the Village Clerk is directed to immediately file a copy of this Local Law with the New York State Secretary of State as required by law.

Adopted by the Oxford Village Board on \_\_\_\_\_

I hereby certify that the local law annexed hereto, designated as Local Law No. \_\_\_\_\_ of 2013 of the Village of Oxford, was duly passed by the Village Board on \_\_\_\_\_ in accordance with the applicable provisions of law.

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.

\_\_\_\_\_  
Patricia Nelson, Village Clerk  
Date: \_\_\_\_\_

*(Seal)*

STATE OF NEW YORK  
COUNTY OF CHENANGO

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.

\_\_\_\_\_  
\_\_\_\_\_, Esq.,  
\_\_\_\_\_ for the Village of Oxford  
Date: \_\_\_\_\_

**Version January 02, 2013**

**APPENDIX A**  
to  
Village of Oxford  
Local Law No. 1 of the Year 2013

[A local law to amend and supplement the Village of Oxford Zoning Ordinance adopted January 2, 1973 (as heretofore amended),

by:

Establishing a Severability Clause; Confirming that any Uses not Expressly Permitted are Prohibited; Adding Certain New Definitions, and Changing Certain Existing Definitions; and Modifying, Clarifying, and Adding to the Provisions Regarding Variances.]

**Section 1. Authority.** This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Village Board of the Village of Oxford under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(i); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statute of Local Governments §10(1), (6), and (7); Village Law § 4-412(a); Village Law Article 7 (Building Zones) inclusive; Environmental Conservation Law § 17-1101, §27-0711; and New York State Law, Public Health Law § 228 (2), and (3).

**Section 2. Findings of Fact.**

1. The Village of Oxford is a community in Chenango County that takes great pride in and assigns great value to its small-town atmosphere, and scenic and other natural resources.
2. Maintaining the quality of water resources within the Village is critical to protecting the natural environment of the Village, the general health and welfare of Village residents, and the local economy.
3. Preservation of the Village's irreplaceable scenic sites, air quality and water quality, and priceless and unique character, is of significant value to the inhabitants of the Village and to the tourists who visit here.
4. The Village's rich natural environment is a valuable asset that creates a sense of identity and well-being for residents of the area. Preserving and protecting the scenic, recreational, and other natural resources of the Village is important for both a healthy environment and vibrant economy. Aesthetic issues are real and evoke strong reactions from people. They deeply affect the way people feel about a place – whether or not businesses will want to locate, or people will want to live in and visit a place.
5. Allowing Land Application Facilities, Natural Gas And/Or Petroleum Exploration Activities, Natural Gas And/Or Petroleum Extraction Activities, Natural Gas And/Or Petroleum Exploration,

Extraction Or Production Wastes Disposal/Storage Facilities, Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes Dumps, Natural Gas Compression Facilities, Natural Gas Processing Facilities, Underground Injection, or Underground Storage of Natural Gas (collectively, the "Subject Land Uses") to take place in the Village could impair the existing character of the Village, because by their very nature such activities have the potential to produce a combination of negative impacts upon the environment and people living in or in proximity to the communities in which they are located. Such negative impacts may include, without limitation, traffic, noise, vibrations, fumes, damage to roadways, degradation of water quality, degradation of air quality, decreased availability of affordable housing, damage to and loss of agricultural lands and soils, damage to and loss of open space, natural areas, and scenic views, decreased recreational opportunities, and damage to the tourism industry.

6. If one or more of the Subject Land Uses are conducted within the Village, traffic generated thereby could be hazardous or inconvenient to the inhabitants of the Village and could be dangerous to pedestrians (especially children), cyclists, and motorists, and could result in traffic congestion that could delay emergency response times for medical emergencies, fires and accidents. Roads are a critical public resource and constitute a major investment of the public's money. The Village is not in a position to bear the high costs associated with the road use impacts that accompany many of the Subject Land Uses. Accidents involving heavy trucks have greater potential for death than those involving smaller vehicles. Increased truck traffic increases air pollution and noise levels, and decreases the quality of life and property values for those living nearby.
7. If one or more of the Subject Land Uses are conducted within the Village, the air pollution, dust and odors generated thereby (whether onsite or by truck traffic to and from the proposed site of such activities) could be hazardous or inconvenient to the inhabitants of the Village. Air pollution is a known hazard to the public health.
8. Allowing one or more of the Subject Land Uses to be conducted within the Village could negatively impact the quality of water resources within the Village. Water pollution is hazardous to the public health. If a domestic water source is contaminated, remediation is time and cost intensive, and may not restore the water resource to a quality acceptable for domestic use.
9. If one or more of the Subject Land Uses are conducted within the Village, noise, vibrations, and light pollution typically caused by such Land Uses could be hazardous or inconvenient to the inhabitants of the Village. Noise, traffic congestion, nighttime lighting, and vibrations can have negative effects on human health and wildlife.
10. The creation, generation, keeping, storage or disposal of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined in the contemplated amendment to the Village Zoning Law to which these Findings of Fact relate) within the Village could have a negative impact on the public health, safety and welfare of the inhabitants of the Village.
11. The high costs associated with the disposal of such Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes have in other localities resulted, and could in our Village result, in persons seeking to avoid such costs by depositing such material along roadways, in vacant lots,

on business sites, in the private dumpsters of others, or in other unauthorized places. Such activities could pose a hazard to the public health, safety, and welfare of the inhabitants of the Village.

12. There is no question that exclusion of specified industrial uses is a legitimate goal of land use laws:

As the United States Supreme Court stated in *Village of Belle Terre v. Borass*, 416 U.S. 1 (1974):

*the concept of public welfare is broad and inclusive.... The values that it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the [local] legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.*  
416 U.S. at 6.

And see also *Matter of Gernatt Asphalt Products, Inc. v. Village of Sardinia*, 87 N.Y. 2d 668 (1996), where the Court of Appeals, New York State's highest court, held as follows:

**A municipality is not obliged to permit the exploitation of any and all natural resources within the town as a permitted use if limiting that use is a reasonable exercise of its police power to prevent damage to the rights of others and to promote the interests of the community as a whole.** 87 N.Y. 2d at 683, 684. (emphasis added.)

### **Section 3. Purposes and Intent.**

The Purposes and Legislative Intent respecting this Local Law are as follows:

A. Purposes. This Local Law is enacted so as to take proactive steps to protect and preserve the quality of the Village's air and water and historic resources, and other assets, and to protect and promote the health, safety, and welfare of the Village and its present and future residents. This Local Law reflects and is in furtherance of the Village Board's goals, objectives, and policies for the protection, enhancement, growth, and development of the Village. Without limiting the generality of the foregoing, this Local Law is intended and is declared by the Village Board to:

- (1) promote the purposes of planning and land use regulation by, among other things, preserving the roads, and fire, police, and other emergency response services in the Village;
- (2) promote the health, safety, and welfare of the Village;
- (3) protect the Village's priceless and unique character, the preservation of which is of significant value to the inhabitants of the Village and the tourists who visit here; and

(4) protect the Village's irreplaceable historic, water quality, air quality, scenic and other natural resources.

#### B. Declaration of Intent.

(1) Exercise of Police Power. This Local Law is a police power, public nuisance and land use regulation, designed to establish and provide for general land use regulation, environmental protection, public safety, prevention of increased traffic congestion, protection of rural and agricultural resources, preservation of the character of the Village, protection of air quality, protection of water resources quality, prevention of noise and disturbance, protection against diminished property values, and protection of the public from nuisance and/or land use effects and impacts.

(2) Protection of Private Drinking Water Supplies. This Local Law is intended to protect drinking water supplies and is intended to supplement and enhance and is not intended to impinge upon the Safe Drinking Water Act or the Underground Injection Control programs administered by the Environmental Protection Agency.

(3) Matters of Local Concern. This Local Law is intended to and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Village Board to address matters of statewide concern.

(4) Negative Externalities. This Local Law is intended and is hereby declared to impose conditions and restrictions on the use of property that are directly related to and incidental to the use of that property, and such conditions and restrictions are aimed at minimizing or precluding the adverse impact on the Village that could result from an inappropriate use of the property that could otherwise adversely affect the comfort, peace, enjoyment, health, and safety of the surrounding land.

(5) Land Use Control. This Local Law is intended to act as and is hereby declared to be an exercise of the permissive "incidental control" of a police power law that is concerned with the broad area of land use planning and the physical use of land and property within the Village, including the physical externalities associated with certain land uses, such as negative impacts on roadways and traffic congestion and other deleterious impacts on a community. This Law is not intended to regulate the operational processes of any business. This Local Law is a law of general applicability and is intended to promote the interests of the community as a whole.

--- END ---



*PROPOSAL Date: October 15, 2012*

LOCAL LAW FILING

New York State Department of State  
41 State Street, Albany, NY 12231

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(Use this form to file a local law with the Secretary of State)

County  
City  
Village

Village of Oxford

Local Law No. 2 of the year 2012.

A local law “to effect a Moratorium and Prohibition Within The Village of  
Natural Gas And Petroleum Exploration And Extraction Activities,  
Underground Storage Of Natural Gas,  
And Disposal Of  
Natural Gas Or Petroleum Extraction, Exploration, And Production Wastes.”

Be it enacted by the Village Board of the

County  
City  
Village

Village of Oxford, as follows:

Section 1. TITLE

This Local Law shall be known as the  
“Moratorium on and Prohibition of  
Gas And Petroleum Exploration And Extraction Activities,  
Underground Storage Of Natural Gas, and  
Disposal Of  
Natural Gas Or Petroleum Extraction, Exploration, And Production Wastes.”

Section 2. AUTHORITY AND INTENT; FINDINGS; PURPOSE

A. The Village Board of the Village of Oxford hereby adopts this Local Law pursuant to the authority described at Section 1. of Appendix A attached hereto, which Appendix A is hereby incorporated and made a part of this Local Law for all purposes by this reference.

B. The Village Board has found, determined, and made the declarations of findings set forth at Section 2. of Appendix A attached hereto.

C. The Purposes underlying the Village Board's passage of this Local Law, as articulated, found, and declared by the Village Board, are set forth at Section 3. of Appendix A attached hereto.

### Section 3. DEFINITIONS

For purposes of this Local Law, the following terms shall have the meanings respectively set forth below:

Agriculture Use--- Land used for the production of crops and/or livestock and livestock products (as those terms are defined at Section § 301 of the New York State Agriculture and Markets Law).

Board of Appeals --- The Zoning Board of Appeals of the Village.

Below-Regulatory Concern --- Radioactive material in a quantity or of a level that is distinguishable from background (as that phrase is defined at 10 CFR §20.1003), but which is below the regulation threshold established by any regulatory agency otherwise having jurisdiction over such material in the Village.

Injection Well --- A bored, drilled or driven shaft whose depth is greater than the largest surface dimension, or a dug hole whose depth is greater than the largest surface dimension, through which fluids (which may or may not include semi-solids) are injected into the subsurface and less than ninety (90) percent of such fluids return to the surface within a period of ninety (90) days.

Land Application Facility --- A site where any Natural Gas Exploration And/Or Petroleum Production Wastes are applied to the soil surface or injected into the upper layer of the soil.

Natural Gas --- Methane and any gaseous substance, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

Natural Gas And/Or Petroleum Exploration Activities --- Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, *but only to the extent* that such activities involve or employ core, rotary, or any other type of drilling or otherwise making any penetration or excavation of any land or water surface in the search for and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

Natural Gas And/Or Petroleum Extraction Activities --- The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons, including without limitation any and all forms of shale fracturing.

Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes --- Any of the following in any form, and *whether or not* such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of "industrial waste," or "hazardous" or "toxic" substances, materials, or wastes, and whether or not such substances are generally characterized as waste: (a) below-regulatory concern radioactive material, or any radioactive material which is not below-regulatory concern, but

which is in fact not being regulated by the regulatory agency otherwise having jurisdiction over such material in the Village, whether naturally occurring or otherwise, in any case relating to, arising in connection with, or produced by or incidental to the exploration for, the extraction or production of, or the processing, treatment, or transportation of, natural gas, petroleum, or any related hydrocarbons; (b) natural gas or petroleum drilling fluids; (c) natural gas or petroleum exploration, drilling, production or processing wastes; (d) natural gas or petroleum drilling treatment wastes (such as oils, frac fluids, produced water, brine, flowback, sediment and/or any other liquid or semi-liquid material); (e) any chemical, waste oil, waste emulsified oil, mud, or sediment that was used or produced in the drilling, development, transportation, processing or refining of natural gas or petroleum; (f) soil contaminated in the drilling, transportation, processing or refining of natural gas or petroleum; (g) drill cuttings from natural gas or petroleum wells; or (h) any other wastes associated with the exploration, drilling, production or treatment of natural gas or petroleum. This definition specifically intends to include some wastes that may otherwise be classified as “solid wastes which are not hazardous wastes” under 40 C.F.R. § 261.4(b). The definition of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes *does not include* (i) recognizable and non-recognizable food wastes, or (ii) waste generated by Agriculture Use.

Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Disposal/Storage Facility --- Any of the following: (a) tanks of any construction (metal, fiberglass, concrete, etc.); (b) impoundments; (c) pits; (d) evaporation ponds; or (e) other facilities, in any case used for the storage or treatment of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes that: (i) are being held for initial use, (ii) have been used and are being held for subsequent reuse or recycling, (iii) are being held for treatment, or (iv) are being held for storage.

Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump --- Land upon which Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes, or their residue or constituents before or after treatment, are deposited, disposed, discharged, injected, placed, buried or discarded, without any intention of further use.

Natural Gas And/Or Petroleum Support Activities --- Shall mean and be any one or more of the following: (a) Natural Gas Compression Facility; (b) Natural Gas Processing Facility; (c) Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Disposal/Storage Facility; (d) Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump; (e) Land Application Facility; (f) Underground Injection; or (g) Underground Natural Gas Storage.

Natural Gas Compression Facility --- Those facilities or combination of facilities that move natural gas or petroleum from production fields or natural gas processing facilities in pipelines or into storage; the term shall include equipment for liquids separation, natural gas dehydration, and tanks for the storage of waste liquids and hydrocarbon liquids.

Natural Gas Processing Facility --- Those facilities that separate and recover natural gas liquids (NGLs) and/or other non-methane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or stripping gas, cooking and dehydration, residual refinement, treating or removing oil or condensate, removing water, separating NGLs, removing sulfur or carbon dioxide, fractionation of NGLs, or the capture of CO<sub>2</sub> separated from natural gas streams.

Person --- Any individual, public or private corporation for profit or not for profit, association, partnership, limited liability company, limited liability partnership, firm, trust, estate, and any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

Radioactive Material --- Material in any form that emits radiation, but only if such material has been moved from its naturally occurring location through an industrial process. Such material is “radioactive material” for purposes hereof, whether or not it is otherwise exempt from licensing and regulatory control pursuant to the NYS Department of Labor, the US Nuclear Regulatory Commission, the US Environmental Protection Agency, the US Department of Energy, the US Department of Transportation, or any other regulatory agency.

Radiation --- The spontaneous emission of particles (alpha, beta, neutrons) or photons (gamma) from the nucleus of unstable atoms as a result of radioactive decay.

Subsurface --- Below the surface of the earth, or of a body of water, as the context may require.

Village --- The Village of Oxford, Chenango County, New York.

Village Board --- The Village Board of Trustees of the Village.

Underground Injection --- Subsurface emplacement of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes by or into an Injection Well.

Underground Natural Gas Storage --- Subsurface storage, including in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location for the primary purpose of load balancing the production of natural gas. Includes compression and dehydration facilities.

#### Section 4. MORATORIUM AND PROHIBITION.

A. From and after the date of this Local Law, no application for a permit, zoning permit, special permit, zoning variance (except as contemplated by Section 8 of this Law), building permit, site plan approval, subdivision approval or other Village-level approval shall be accepted, processed, approved, approved conditionally, or issued for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Village for any of the following: (i) any Natural Gas And/Or Petroleum Exploration Activities; (ii) any Natural Gas And/Or Petroleum Extraction Activities; or (iii) any Natural Gas And/Or Petroleum Support Activities.

B. From and after the date of this Local Law, no Person shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Village for any of the following: (i) any Natural Gas And/Or Petroleum Exploration Activities; (ii) any Natural Gas And/Or Petroleum Extraction Activities; or (iii) any Natural Gas And/Or Petroleum Support Activities.

C. The moratorium and prohibition set forth above in Sections A. and B. of this Section 4. are not intended, and shall not be construed, to: (i) prevent or prohibit the digging or drilling of a well for the purposes of exploring for, developing, or producing potable water; (ii) prevent or prohibit the right

to use roadways in commerce or otherwise for travel; (iii) prevent or prohibit the transmission of natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supplying natural gas to residents of or buildings located in the Village; or (iv) prevent or prohibit the incidental or normal sale, storage, or use of lubricating oil, heating oil, gasoline, diesel fuel, kerosene, or propane in connection with legal Agriculture, residential, business, commercial, and other uses within the Village.

D. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is nine months after said effective date, or (ii) the effective date of a duly enacted repeal of this Local Law.

E. This moratorium and prohibition shall apply to all real property within the Village.

F. Under no circumstances shall the failure of the Village Board of the Village, the Zoning Board of Appeals of the Village, the Planning Board of the Village, or the Code Enforcement Officer for the Village to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, site plan approval, subdivision approval, or other Village-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

#### Section 5. PENALTIES.

A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500) or imprisonment for not more than 10 days, or both, for the first offense. Any subsequent offense within a three month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) or imprisonment for a period of not more than 30 days, or both. For purposes of this Clause A., each day that a violation of this Local Law exists shall constitute a separate and distinct offense.

B. Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Village by the Village Board. In the event the Village shall seek any such equitable relief, the Village shall not be required to: (i) show or prove the lack of an adequate remedy in law; or (ii) post any bond or undertaking.

C. In the event the Village desires or is required to take legal action to enforce this Local Law the violator will be responsible for any and all necessary costs and expenses incurred by the Village relative thereto, including attorneys', engineering, consulting, and experts' fees; however, any responsibility or liability therefor, and the amount thereof, shall be determined by a Court or other tribunal of competent jurisdiction, and this clause shall be interpreted, construed, and applied only to the maximum extent permitted by applicable law.

## Section 6. ‘GRANDFATHERING’ OF LEGAL, PRE-EXISTING NON-CONFORMING USE

Notwithstanding any provision hereof the contrary, any Natural Gas And/Or Petroleum Extraction Activities that are being conducted in the Village as of the effective date of this Local Law shall be subject to the following:

A.1. If, as of the effective date of this Local Law, substantive Natural Gas And/Or Petroleum Extraction Activities are occurring in the Village, and those activities are in all respects being conducted in accordance with all applicable laws and regulations, including without limitation the possession of valid, non-revoked permits for all matters for which permits are required, and including compliance with each, any, and all permit conditions, as are or may be required by the New York State Department of Environmental Conservation (“DEC”) and/or all other regulating local, state, and federal governments, bureaus, or agencies,, then and only then such Activity shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of Clauses B. and C. of this Section 6.

2. Natural Gas And/Or Petroleum Extraction Activities that are being conducted in the Village as of the effective date of this Local Law and which do not qualify for treatment under the preceding Clause A. 1. of this Section 6 shall not be grandfathered (or be permitted to continue or deemed lawful pre-existing uses), and shall in all respects be prohibited as contemplated by Section 4 hereof.

B. Upon the depletion, closing, or reclamation of any well which is allowed to remain in operation after the effective date of this Local Law by virtue of Clause A. 1. of this Section 6, or upon any other substantive cessation of Natural Gas And/Or Petroleum Extraction Activities (otherwise grandfathered by virtue of Clause A. 1. of this Section 6) for a period of more than twelve (12) months, then and in either of such events the pre-existing and/or non-conforming use status (and any related ‘grandfathering’ rights) of such Activity shall terminate, and thereafter such Natural Gas And/Or Petroleum Extraction Activities shall in all respects be prohibited as contemplated by Section 4 hereof.

C. Notwithstanding any provision hereof to the contrary, the pre-existing, non-conforming status conferred and recognized by Clause A. 1. of this Section 6 is not intended, and shall not be construed, to authorize or grandfather any Natural Gas And/Or Petroleum Extraction Activities extending beyond whatever well bore is authorized in any DEC permit in existence as of the effective date of this Local Law. Any expansion or attempted or purported expansion of such well, whether as to its production, depth, horizon(s) or otherwise, shall not be grandfathered under Clause A. 1. of this Section 6, and instead shall in all respects be prohibited as contemplated by Section 4 hereof.

## Section 7. INVALIDITY OF ANY CONFLICTING APPROVALS OR PERMITS.

Except as contemplated by Section 8 of this Local Law, no permit or approval issued by any local agency, department, commission or board shall be deemed valid when or to the extent that such

permit or approval purports to allow or permit any activity that would violate the prohibitions set forth at Section 4 of this Local Law.

Section 8. HARDSHIP USE VARIANCE.

The Board of Appeals of the Village is hereby authorized to accept and review (after public notice and hearing and in accordance with the requirements of law and of this Local Law) requests for a hardship use variance from application of the provisions of this Local Law by persons aggrieved hereby.

No such use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship.

- A. *Unnecessary Hardship.* In order to prove such unnecessary hardship the applicant is required to demonstrate to the Board of Appeals that, with respect to every permitted use under the zoning regulations for the particular district where the property is located, each of the following four criteria is satisfied: (i) the applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (iii) the requested use variance, if granted, will not alter the essential character of the neighborhood; and (iv) the alleged hardship has not been self-created.
- B. *Reasonable Rate of Return.* In evaluating whether the applicant can realize a reasonable rate of return, the Board of Appeals must examine whether the entire original or expanded property holdings of the applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed development project). No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the applicant has clearly demonstrated, by detailed “dollar and cents” proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) and for each and every permitted use in the district (including those uses permitted by special use permit).
- C. *Unique Hardship.* No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.
- D. *Essential Character of the Neighborhood.* In making its determination of whether the proposed development project will alter the essential character of the neighborhood, the Board of Appeals shall take into account factors that are of vital importance to the citizens of the Village including without limitation: (i) the rural residential, agricultural and historic character of the area and the Village, (ii) its irreplaceable recreation and tourism sites, (iii) the extent of hazard to life, limb or property may result from the proposed development project, (iv) health impacts, (v) the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances, (vi) the impact on property values, and (viii) whether the applicant will use a style of development that will result in degradation to the air quality, water quality and environment of the Village. In order to find that the proposed development project does not alter the essential character of the neighborhood, the Board of Appeals shall interpret the public

interest in said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following: (x) pose a threat to the public safety, including public health, water quality or air quality, (y) cause an extraordinary public expense, or (z) create a nuisance.

E. *Self-Created Hardship.* The Board of Appeals may find that the applicant suffers from a self-created hardship in the event that the Board finds that (i) the applicant's inability to obtain a reasonable return on the property as a whole results from having paid too much for the property, or that such inability arises from a poor investment decision; (ii) the applicant previously divided the property and is left with only a portion which suffers from some unique condition for which relief is sought and which did not apply to the parcel as a whole; or (iii) when the applicant purchased the property, he or she knew or should have known the property was subject to the zoning restrictions.

In the event the Board of Appeals grants a hardship use variance from the provisions of this Local Law to the applicant, the applicant shall be required to comply with all provisions of the Village's then applicable zoning laws and other laws and regulations, together with any amendments to such law or regulations which may be enacted during the term of this Local Law. Any hardship use variance that is granted shall grant only the minimum variance that the Board of Appeals deems 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.

#### Section 9. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Village Board of the Village hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

#### Section 10. SUPERSEDING INTENT AND EFFECT.

During the time this Local Law is in effect, it is the specific intent of the Village Board to supersede any inconsistent provisions of any and all other local ordinances, local laws, or local resolutions or policies of the Village of Oxford.



Section 11. GENERAL PROVISIONS.

A. The Code Enforcement Officer is hereby designated as the enforcement officer for purposes of interpreting and enforcing this Local Law. The Village Board reserves the right, by resolution to change or designate additional enforcement officers.

B. The section and other headings and titles to clauses and phrases in this Local Law are for convenience only, and shall not be used or construed to limit or define the scope or application of the clauses and phrases so following such headings or titles. Each section of this Local Law, whether in the nature of a preamble or otherwise, is a material part of this Local Law.

Section 12. EFFECTIVE DATE.

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

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I hereby certify that the local law annexed hereto, designated as Local Law No. Two (2) of 2012 of the Village of Oxford, was duly passed by the Village Board on \_\_\_\_\_ in accordance with the applicable provisions of law.

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.

\_\_\_\_\_  
Patricia Nelson, Village Clerk  
Date: \_\_\_\_\_

(Seal)

STATE OF NEW YORK  
COUNTY OF CHENANGO

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.

\_\_\_\_\_  
, Esq.,  
Attorney for the Village of Oxford  
Date: \_\_\_\_\_

**PROPOSAL October 15, 2012**

**APPENDIX A**

ATTACHED TO AND FORMING A PART OF  
VILLAGE OF OXFORD (NY) LOCAL LAW NO. 2 of the YEAR 2012,  
known as:

**“Moratorium on and Prohibition of  
Gas And Petroleum Exploration And Extraction Activities,  
Underground Storage Of Natural Gas,  
and Disposal Of  
Natural Gas Or Petroleum Extraction, Exploration, And Production Wastes.”**

The “Moratorium on and Prohibition of Gas And Petroleum Exploration And Extraction Activities, Underground Storage Of Natural Gas, and Disposal Of Natural Gas Or Petroleum Extraction, Exploration, And Production Wastes” to which this Appendix A is attached is herein sometimes referred to as “this Local Law” or “this Law.”

This Appendix A is a part of the Local Law to which it is attached for all purposes.

**Section 1. Authority and Intent.** This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Village Board of the Village of Oxford under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(i); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statute of Local Governments §10(1), (6), and (7); Village Law § 4-412(a); Village Law Article 7 (Building Zones) inclusive; Environmental Conservation Law § 17-1101, §27-0711; and New York State Law, Public Health Law § 228 (2), and (3).

This Law is a police power and land use regulation. This Law is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Village to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive “incidental control” of a land use law that is concerned with the broad area of land use planning and the physical use of land and property within the Village, including the physical externalities associated with certain land uses, such as negative impacts on roadways and traffic congestion and other deleterious impacts on a community.

**Section 2. Findings of Fact.**

1. Oxford is a community in Chenango County that takes great pride in and assigns great value to its small-town atmosphere, and scenic and other natural resources. Resource assets include municipal wells(3), inground reservoir , Chenango River, Clarks Creek and several Parks,

2. Maintaining the quality of water resources within the Village is critical to protecting the natural environment of the Village, the general health and welfare of Village residents, and the local economy.
3. Preservation of the Village's irreplaceable scenic sites, air quality and water quality, and priceless and unique character, is of significant value to the inhabitants of the Village and to the tourists who visit here.
4. The Village's rich natural environment is a valuable asset that creates a sense of identity and well-being for residents of the area. Preserving and protecting the scenic, recreational, and other natural resources of the Village is important for both a healthy environment and vibrant economy. Aesthetic issues are real and evoke strong reactions from people. They deeply affect the way people feel about a place – whether or not businesses will want to locate, or people will want to live in and visit a place.
5. Allowing the activities prohibited by Section 4. of the Local Law could impair the existing character of the Village, because by their very nature such activities have the potential to produce a combination of negative impacts upon the environment and people living in or in proximity to the communities in which they are located. Such negative impacts may include, without limitation, traffic, noise, vibrations, fumes, damage to roadways, degradation of water quality, degradation of air quality, decreased availability of affordable housing, damage to and loss of agricultural lands and soils, damage to and loss of open space, natural areas, and scenic views, decreased recreational opportunities, and damage to the tourism industry.
6. If one or more of the activities prohibited by Section 4. of the Local Law are conducted within the Village, traffic generated thereby could be hazardous or inconvenient to the inhabitants of the Village and could be dangerous to pedestrians (especially children), cyclists, and motorists, and could result in traffic congestion that could delay emergency response times for medical emergencies, fires and accidents. Roads are a critical public resource and constitute a major investment of the public's money. The Village is not in a position to bear the high costs associated with the road use impacts that accompany many of the activities prohibited by Section 4. of the Local Law. Accidents involving heavy trucks may have greater potential for death than those involving smaller vehicles. Increased truck traffic increases air pollution and noise levels, and decreases the quality of life and property values for those living nearby.
7. If one or more of the activities prohibited by Section 4. of the Local Law are conducted within the Village, the air pollution, dust and odors generated thereby (whether onsite or by truck traffic to and from the proposed site of such activities) could be hazardous or inconvenient to the inhabitants of the Village.
8. Air pollution is a known hazard to the public health.
9. Allowing one or more of the activities prohibited by Section 4. of the Local Law to be conducted within the Village could negatively impact the quality of water resources within the Village. Water pollution is hazardous to the public health. If a domestic water

source is contaminated, remediation is time and cost intensive, and may not restore the water resource to a quality acceptable for domestic use.

10. If one or more of the activities prohibited by Section 4. of the Local Law are conducted within the Village, noise, vibrations, and light pollution typically caused by such Activities could be hazardous or inconvenient to the inhabitants of the Village. Noise, traffic congestion, nighttime lighting, and vibrations can have negative effects on human health and wildlife.
11. The creation, generation, keeping, storage or disposal of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined at Section 3. of the Local Law) within the Village could have a negative impact on the public health, safety and welfare of the inhabitants of the Village.
12. The high costs associated with the disposal of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined at Section 3. of the Local Law) have in other localities resulted, and could in our Village result, in persons seeking to avoid such costs by depositing such material along roadways, in vacant lots, on business sites, in the private dumpsters of others, or in other unauthorized places. Such activities could pose a hazard to the public health, safety, and welfare of the inhabitants of the Village.
13. The explicit proscription of the activities prohibited by Section 4. of the Local Law is a legitimate goal of land use laws. There is no question that exclusion of specified industrial uses is a legitimate goal of such laws:

As the United States Supreme Court stated in *Town of Belle Terre v. Borass*, 416 U.S. 1 (1974):

*the concept of public welfare is broad and inclusive.... The values that it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the [local] legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.*  
416 U.S. at 6.

And see also *Matter of Gernatt Asphalt Products, Inc. v. Town of Sardinia*, 87 N.Y. 2d 668 (1996), where the Court of Appeals, New York State's highest court, evaluated a claim that a town's prohibition of mining throughout the town was in effect unconstitutional 'exclusionary zoning,' and held as follows:

*We have never held, however, that the ... ['exclusionary zoning'] test, which is intended to prevent a municipality from improperly using the zoning power to*

*keep people out, also applies to prevent the exclusion of industrial uses. **A municipality is not obliged to permit the exploitation of any and all natural resources within the town as a permitted use if limiting that use is a reasonable exercise of its police power to prevent damage to the rights of others and to promote the interests of the community as a whole.** 87 N.Y. 2d at 683, 684. (emphasis added.)*

**Section 3. Purposes.** The purpose of the Local Law is to enable the Village of Oxford to stay the construction, operation, and establishment of, and the submission and processing of applications for permits, zoning permits, special permits, zoning variances, building permits, operating permits, site plan approvals, subdivision approvals, certificates of occupancy, certificates of compliance, temporary certificates, and other Village-level approvals respecting, the activities prohibited by Section 4. of the Local Law, for a reasonable time, so as to allow the Village time to study the impacts, effects, and possible controls over such activities and to consider enacting new laws, and amendments to the Village's zoning laws to address the same. The Village Board of Trustees finds that a moratorium of nine (9) months duration, coupled with a mechanism for an 'unnecessary hardship' variance procedure, will achieve an appropriate balancing of interests between (on the one hand) the public need to safeguard the character and other resources of the Village of Oxford and the health, safety and general welfare of its residents, and the rights of individual property owners or businesses desiring to conduct such activities (on the other) during such period.

--- END ---