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**TOWN OF OTISCO
LOCAL LAW NO. 1 of 2012**

**A LOCAL LAW IMPOSING A MORATORIUM ON
OIL AND GAS EXPLORATION AND EXTRACTION ACTIVITIES
IN THE TOWN OF OTISCO**

Be it enacted by the Town Board of the Town of Otisco, County of Onondaga, State of New York as follows:

Section 1. TITLE

This law shall be known as Town of Otisco 2012 Moratorium Law on Oil and Gas Exploration and Extraction Activities.

Section 2. LEGISLATIVE INTENT

- A. The Town Board of the Town of Otisco is vested by the State of New York with authority to regulate certain activity within the Town of Otisco to protect the health, safety, and welfare of its residents and the environment. The Town of Otisco has legitimate goals and aims to protect the community, and the cultural, historical, recreational and environmental resources within the Town. The Town Board believes that studying certain activity is necessary so that certain activity is regulated to protect the Town's predominant residential and agricultural uses and to protect the environment from potential negative impacts.
- B. The Town Board recognizes the importance of finding and developing sources of oil and natural gas energy resources.
- C. However, the Town Board is also concerned with the potential for damage to the environment resulting from oil and gas exploration and extraction. Oil and gas exploration and extraction activities may involve the use of large amounts of land and water, including the use of surface water (rivers, streams, ponds, basins, lakes), groundwater, municipal water, and other water sources. Further, these uses may also create more demand for water and may create wastewater, resulting in the need for commercial wastewater treatment facilities to dispose of byproducts. The Town Board is concerned with the potential for surface and groundwater pollution, possibly adversely affecting the water quality of many water wells and water sources in the Town, wetlands, and the Otisco Lake watershed, which is the primary source of water from Otisco Lake for use by portions of the Town of Otisco and other local municipalities.

- D. There may also be further impacts to local land and roads during the construction and use of oil and gas exploration and extraction facilities and apparatus, including the potential for sediment and soil erosion, the release of naturally occurring radioactive materials, ground and air pollution, among other potential impacts, which may adversely affect the primarily residential and agricultural uses in the Town of Otisco.
- E. A moratorium would allow necessary time for the Town Board to further examine other potentially significant issues relative to oil and gas exploration and extraction, and to examine whether local laws or regulations relating to oil and gas exploration and extraction activities are necessary, and if so, the extent of such regulations. If the Town Board deems that such local laws or regulations are necessary, the Town Board may enact appropriate laws, rules and regulations to ensure the health, safety, and welfare of its residents and the environment consistent with other laws, rules and regulations.
- F. The Town of Otisco does hereby find that a moratorium of six (6) months duration is necessary and reasonable in order to afford the Town Board an opportunity to review the potential impacts of oil and gas exploration and extraction activities and to consider recommendations to the Town Board relating to such activities. A moratorium of six (6) months will prevent the establishment or continuation of such uses that may be contrary to any regulations that may be ultimately adopted. The health, safety and general welfare of the residents of the Town and its environment will be protected by the enactment of this moratorium pending the issuance of final laws, rules or regulations by the Town of Otisco or by other governmental agencies.

Section 3. ENACTMENT OF LOCAL LAW.

The Town Board hereby declares a six-month moratorium on any new activities or processes involving or associated with oil and gas exploration and extraction activities within the Town of Otisco including the establishment, implementation, placement, or construction of new or expanded facilities or apparatus associated with or related to oil and gas exploration and extraction activities in the Town of Otisco after the effective date, and during the duration of this Local Law, and any extension hereof.

Section 4. DEFINITIONS

- A. **PERSON** - For the purposes of this Local Law, the term "person" shall include any individual, proprietorship, society, club, firm, general or limited partnership, joint venture, public or private corporation, not-for-profit corporation, limited liability company, unincorporated association, estate, trust, government or governmental instrumentality, or any other entity, or any association of persons as defined herein, and the singular shall include the plural number.

- B. **TOWN/TOWN BOARD.** – For purposes of this Local Law, the term “Town” shall mean the Town of Otisco located in the County of Onondaga, State of New York and “Town Board” shall refer to the Town of Otisco Town Board.

Section 5. SCOPE AND CONTROL

- A. For a period of six (6) months following the effective date of this Local Law, no new oil or gas exploration and extraction activities, or any expansions beyond existing operations or facilities, shall be permitted by any Person within the Town of Otisco.
- B. During the effective period of this Local Law, the Codes Enforcement Officer of the Town shall not consider and/or issue any building permit or other permit which would result in the establishment, implementation, placement, construction or development of any new oil or gas exploration or extraction activity, facility, or operation, including any activity associated therewith or in furtherance thereof, or the enlargement or expansion of any existing oil or gas facility or operation or the use of any real property within the Town for new, or the expansion of, existing natural gas or oil exploration or extraction activities within the Town of Otisco.
- C. If, within six (6) months, the Town Board adopts a local law, rules or regulations relating to oil and gas exploration and extraction, then, in that event, the moratorium imposed by this Local Law shall expire immediately on the date any such Town of Otisco local law, rules or regulations relating to oil and gas exploration and extraction activities takes effect in accordance with Section 27 of the Municipal Home Rule Law.
- D. The Town Board of the Town of Otisco may amend, modify, terminate, or extend this Local Law in accordance with applicable law.
- E. The Town Board reserves to itself the power, in its sole discretion, to vary or adapt the strict application of the requirements of this Local Law or any portion hereof, in the case of unusual hardship or circumstances that would deprive a property owner of the reasonable use of the lands involved, provided the application is consistent with the intent of this Local Law. An application for relief plus 5 copies thereof shall be filed with the Town Clerk, together with a filing fee of \$250.00. The application shall identify the land involved, recite the nature of the proposed use of the land, provide a narrative description of the project, identify the circumstances pursuant to which the relief is sought, and set forth the reasons why the relief is sought. Any costs, including expert consulting fees, and the Town’s reasonable attorney’s fees, costs and expenses, incurred by the Town shall be paid by the applicant immediately upon request or the application may be denied. The Town Board may refer any application for relief to its consultants for their advice and recommendations. The Town Board may conduct a Public Hearing on any request for relief. All decisions on granting or denying such relief shall be made solely by the Town Board.

Section 6. PROHIBITED ACTIVITIES AND USES

Subject to the provisions of Section 7 of this Local Law below, except for any such use validly existing on the effective date of this Local Law, it shall be prohibited and unlawful for any Person to use, cause, or permit to be used any land, body of water, building, or other structure located within the Town for any of the following purposes:

- 1) To conduct exploration for, or to extract natural gas and/or petroleum, including, but not limited to:
 - To drill any well for natural gas and/or petroleum;
 - To transfer, store, process or treat natural gas and/or petroleum; or
 - To dispose of natural gas and/or petroleum exploration or production wastes; or
 - To erect any derrick, building, or other structure for any such purpose; or
 - To place any machinery or equipment for any such purposes.
- 2) To store, transfer, treat, and/or dispose of natural gas and/or petroleum exploration and production equipment or materials.
- 3) To store, transfer, treat and/or dispose of natural gas and/or petroleum exploration and production wastes.
- 4) To conduct natural gas and/or petroleum support activities.

Section 7. EXCEPTIONS.

a. The lawful use of any premises, facilities or apparatus on, or after the effective date of this Local Law pursuant to a permit issued by the Town of Otisco or other appropriate State or federal agency, may be continued, provided that such use is in accordance with applicable law, and conforms to applicable permits and state or federal laws, rules and regulations, and shall not be modified, or enlarged or extended beyond the permitted use, location and operation existing on the effective date of this Local Law.

b. The prohibitions set forth in this Local Law, are not intended, and shall not be construed, to: (i) prevent or prohibit the transmission of natural gas or oil through utility pipes, lines, or related appurtenances that exist prior to the effective date of this Local Law or are for the limited purpose of supplying natural gas or oil utility services to residents of, or buildings located in the Town; or (ii) 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 Town, so long as such uses and activities do not involve any exploration for or extraction of natural gas and/or petroleum, nor the storage, transfer, treatment, and/or disposal of natural gas and/or petroleum exploration and production equipment or material, and/or natural gas and/or petroleum exploration and production waste activities, and/or natural gas and/or petroleum support activities; or (iii) prevent or prohibit the extraction of oil or gas to be consumed entirely on the property from which the oil and gas is extracted.

Section 8. ENFORCEMENT.

This Local Law shall be enforced by the Codes Enforcement Officer of the Town of Otisco, or such other individual(s) or agencies as may be designated by the Town Board, and it shall be the duty of the enforcement individual(s) or agencies to advise the Town Board of all matters pertaining to the enforcement of this Local Law and to keep all records necessary and appropriate and to timely file the same in the Office of the Town Clerk.

Section 9. VIOLATIONS AND PENALTIES.

- A. Failure to comply with any of the provisions of this 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 (\$1,500.00) or imprisonment for not more than ten (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 (\$2,500.00) or imprisonment for a period of not more than thirty (30) days, or both. For purposes of this subparagraph A, each day that a violation of this Law exists shall constitute a separate and distinct offense.
- B. In the event the Town is required to take legal action to enforce this Law, the violator shall be responsible for any and all necessary costs incurred by the Town relative thereto, including the Town's reasonable attorney's fees, costs, including Court costs and expenses, and such amount shall be determined and assessed by the Court. If such costs and expenses are not paid in full within thirty (30) days from the date they are determined and assessed by a Court, such costs and expenses shall be charged to the property(ies) within the Town on which the violation(s) occurred, by including such costs and expenses in the next annual Town tax levy against such property(ies), and such costs and expenses shall be a lien upon such property(ies) until paid.
- C. In addition to the foregoing, compliance with this 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 Town by the Town Board.

Section 10. OTHER LOCAL LAW, RULE OR REGULATION ON OIL AND GAS.

If the Town Board adopts any other local law, rules or regulations relating to any oil or gas exploration or extraction activities within the Town of Otisco, or otherwise affecting natural gas and petroleum exploration and extraction, the underground storage of natural gas or petroleum and/or the disposal of natural gas or petroleum extraction, exploration or production wastes, then, in the event that such other Local Law may affect the moratorium imposed by this Local Law, then this Local Law shall expire only to the extent that it is affected by subsequent Town of Otisco local law, rules or regulations relating to any oil or gas exploration or extraction

activities within the Town of Otisco, and if affected, it shall take effect in accordance with Section 27 of the Municipal Home Rule Law.

Section 11. AMENDMENT, MODIFICATION, TERMINATION, OR EXTENSION.

The Town Board of the Town of Otisco may amend, modify, terminate, or extend this Local Law in accordance with applicable law.

Section 12. CONFLICT WITH OTHER LAWS.

This Local Law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law of the State of New York. During the duration of times that this Local Law is in effect, to the extent permitted by law, it shall take precedence over and shall be considered controlling over contrary laws, ordinances and provisions including, but not limited to, the statutes set forth in the New York Town Law. Specifically, this Law is intended to supersede Town Law Sections 130, 261, 262, 263, 264, 265, 267, 267-1, 267-b, 268, 269, 274-1, 274-b, 276, 277, 278 and 279.

Section 13. SEVERABILITY.

If any clause, sentence, paragraph, section, article, subdivision, provision, or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be void, invalid or unenforceable, such adjudication or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations and only apply to the clause, sentence, paragraph, section, article, subdivision, provision, or part thereof directly involved in the controversy in which such adjudication or judgment shall have been rendered or so adjudged, and the remainder of this Local Law shall remain valid and in full force and effect.

Section 14. EFFECTIVE DATE.

This Local Law shall become effective 20 days after filing with the Secretary of State.

Town Board of the Town of Otisco

July 9, 2012

Be it so Ordered by the Town Board of the Town of Otisco.


Wayne S. Amato, Town Supervisor


Tammy M. Ayers, Town Clerk

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**TOWN OF OTISCO
LOCAL LAW NO. #2 OF 2012**

**BAN ON CERTAIN HIGH IMPACT INDUSTRIAL ACTIVITIES
AND CERTAIN OTHER ACTIVITIES
HAVING HIGH POTENTIAL FOR DEGRADATION OF
THE TOWN'S CHARACTER AND NATURAL RESOURCES**

Be it enacted by the Town Board of the Town of Otisco, County of Onondaga, State of New York as follows:

Section 1. TITLE

This Local Law shall be known as "Ban on Certain High Impact Industrial **Activities** and Certain Other **Activities** Having High Potential for Degradation of the Town's Character and Natural Resources."

Section 2. LEGISLATIVE INTENT

- A. A clean, wholesome, attractive and safe environment is declared to be of importance to the health and safety of the inhabitants of the Town of Otisco (**sometimes hereinafter referred to as the "Town"**) and, in addition, such an environment is deemed essential to the general welfare of the Town of Otisco and its citizens. The Town Board of the Town of Otisco (**the "Town Board"**) is vested by the State of New York with authority to regulate certain activities within the Town of Otisco to protect the health, safety, and welfare of its residents and the environment. The Town of Otisco has legitimate goals and aims to protect the community, and the cultural, historical, recreational, environmental, and natural resources within the Town. It is further declared that the unrestrained effect of high impact industrial **activities** is a hazard to such health, safety, and welfare of the citizens of the Town of Otisco necessitating the regulation and restraint thereof. At the same time, it is recognized that certain high impact **activities** as hereinafter defined, may be a useful and necessary use and ought to be permitted when not in conflict with the express purposes of this Local Law. The Town Board believes that regulating and prohibiting certain activities is necessary to protect the Town's predominantly residential and agricultural **character of property located in the Town**, and further, to protect the Town's environment and natural resources from potential negative impacts.
- B. The Town Board recognizes the importance of the exploration for and development of sources of natural gas energy resources, and believes that natural gas may be a cleaner and more beneficial source of energy than certain other energy sources. Natural gas development has existed in New York State. There are vast amounts of natural gas in

reserves in shale deposits and new technology has made it more economical to produce natural gas from shale deposits. There have been studies indicating that natural gas production may be a significant benefit to economic activity.

- C. However, the Town Board is concerned with the potential for damage to the Town's **predominately residential and agricultural** character, its natural and cultural environment, and its natural resources, particularly its surface freshwater and groundwater quality and quantity, the potential for sediment and soil erosion, and the release of naturally occurring radioactive materials, among other potential high impacts. Certain high impact industrial **activities** require the use of large amounts of water, including the use of surface freshwater (rivers, streams, ponds, basins, lakes), groundwater, municipal water, wastewater, and other water sources. Further, certain high impact industrial uses will create more demand for water and for commercial wastewater treatment facilities to dispose of byproduct. The Town Board is concerned with the potential for groundwater pollution, possibly affecting many water wells and water sources in the Town. There also may be detrimental impacts to local roads during the construction and operation of high impact industrial **activities**. The Town Board is also concerned with the potential environmental impacts on water quality, agricultural **activities**, wetlands, the Otisco Lake Watershed, and Otisco Lake, which is the primary source of water for portions of the Town of Otisco and other local municipalities.
- D. The application of certain high impact industrial **activities** has generated significant concern about the safety and reliability of high impact industrial **activities** such as natural gas and oil extraction. The Town Board has studied the potential long-term effects of certain **activities** and is well aware of the current review of oil and gas exploration, extraction, and exploitation by the New York State Department of Environmental Conservation ("NYS DEC") and other governmental agencies and by private sources, including an assessment of the various potential environmental impacts from such activities. The Town Board has been reviewing and analyzing state laws, rules and regulations currently in place, **and recent court decisions** and the potential for additional **laws or** regulations at the state or federal levels relating to such activities. The Town Board has imposed a moratorium period to allow the Town Board time to review any further findings and any impending state or federal laws, rules or regulations, which would necessarily impact the role of the Town either regulating or prohibiting certain activities at the local level, and has concluded that while the Town Board may not regulate the **methods and** processes related to certain **activities**, the Town Board may completely ban an activity by exercising its authority to limit, control, **or prohibit certain activities** within the Town of Otisco. The Town Board believes that based on these concerns, the Town should prohibit certain high impact industrial **activities** within the Town and certain other **activities** having a potential for degradation of the Town's character and natural resources.
- E. The Town also must address concerns regarding certain other **activities** having a high potential for degradation of the Town's character and natural resources, and to prevent

and to protect against serious detrimental health and environmental effects. Thus, the Town intends to prohibit certain **activities** consistent with State law that may have an adverse effect on lands and bodies of water within the Town.

- F. This Local Law is intended to impose certain prohibitions, restrictions, and conditions on **activities** within the Town, and that such prohibitions, restrictions, and conditions are imposed to minimize or preclude the adverse impact on the Town's character and natural resources that could result from an inappropriate **activity** and that could otherwise adversely affect the peace, comfort, enjoyment, health, and safety of the residents of the Town.
- G. The Town of Otisco does hereby find that ~~the~~ ban imposed by this Town of Otisco Local Law #_____ of 2012, **of certain high impact industrial activities** is necessary and reasonable to protect the Town's character and natural resources from degradation, and the health, safety and general welfare of the residents of the Town and its environment will be protected by the enactment of this ban.

Section 3. ENACTMENT OF LOCAL LAW.

The Town Board hereby declares a ban prohibiting any high impact industrial **activities**, and certain other **activities**, as hereinafter identified, having high potential for the degradation of the Town's character and natural resources, specifically activities or processes involving or associated with the exploration and extraction of oil and natural gas within the Town of Otisco, including the establishment, application, implementation, placement, or construction of new or expanded oil and gas exploration and extraction facilities or apparatus in the Town of Otisco after the effective date, and during the duration of this Local Law.

Section 4. DEFINITIONS

A. For the purposes of this Local Law, the following terms shall have the following meaning ascribed to them:

- 1. **ACTIVITIES HAVING A HIGH POTENTIAL FOR DEGRADATION OF THE TOWN'S CHARACTER OR NATURAL RESOURCES** - The term "**Activities Having A High Potential For Degradation Of The Town's Character Or Natural Resources**" shall mean any one or more of the following activities **as the same may be hereinafter defined:**

- a. The **utilization** of **Deleterious Substance** Disposal/Storage facility;
- b. Disposal of Radioactive Material;
- c. Extractive Activities for Oil and Gas Industry;
- d. High-Impact Industrial **Activity**;
- e. Use of an Injection Well, and/or the Underground Injection of Deleterious Substances;

- f. Land Application Facility for Non-Exempt Land Activities;
 - g. Large Scale Water Usage;
 - h. Pollution of any Body of Water;
 - i. Any **activity** that is likely to result in any Degradation of **Body of Water** or private water systems in the Town; ~~or in the degradation of any stream, creek, basin, pond or other surface water or any watershed~~
 - j. **The Utilization** of a Natural Gas Compression facility;
 - k. **The Utilization** of a Natural Gas Processing facility;
 - l. **The Utilization** of a Non-Regulated Pipeline;
 - m. **The Utilization** of a Solid Waste Disposal facility;
 - n. **The Utilization** of a Staging facility;
 - o. Terminal for bulk oil, Gas, or Petroleum, Storage or Distribution; and
 - p. Underground Natural Gas or Petroleum Storage.
2. **AGRICULTURAL ACTIVITY or AGRICULTURAL ACTIVITIES** - The terms "Agricultural Activity" or "Agricultural Activities" shall mean land **utilized** for the production of crops and/or livestock and livestock products (as those terms are defined in § 301 of the NY Agricultural and Markets Law.)
3. **BELOW REGULATORY CONCERN** - The term "Below Regulatory Concern" shall mean 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 Town.
4. **BODY OF WATER** - For the purposes of this Local Law, the term "Body of Water" shall mean shall mean any natural or manmade waterways (including, but expressly not limited to basins, creeks, streams, rivers or tributaries), ponds (whether existing naturally or manmade), lakes, wells, wetlands, watersheds and any other water source, whether collecting on the surface of the earth or underground.
5. **CERTIFICATE OF APPROVAL** - For the purposes of this Local Law, the term "Certificate of Approval" shall mean a certificate issued by the Town Board of the Town of Otisco stating that an application for **the construction of facilities or the engagement in a High Impact Industrial Activity**, as defined herein, has been submitted and granted for such construction/**activity**, pursuant to this Local Law.
6. **DEGRADATION OF BODY OF WATER** - The term "Degradation of Body of Water" shall mean the pollution of water that unreasonably reduces the quality of such water. Water quality may be considered unreasonably reduced when the quality of a representative sample of water is rendered harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare.

7. **DELETERIOUS SUBSTANCE** - The term "Deleterious Substance" shall mean 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," toxic," and whether or not such substances are generally characterized as waste:

- (a) Radioactive Material that is either 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 Town, 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, transportation of, Natural Gas, Petroleum, or any related hydrocarbons;
- (b) fluids that have been utilized in the drilling of Natural Gas or Petroleum;
- (c) Natural Gas or Petroleum exploration, drilling production, or processing wastes;
- (d) Natural Gas or Petroleum drilling or treatment wastes (such as oils, 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;
- (h) any wastes associated with the exploration, drilling, production, or treatment of Natural Gas or Petroleum;
- (i) waste from the extraction or processing of ores and minerals, including slag, mud, ash, and process waste water and waste solids.

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), but the definition of Deleterious Substance does not include: (1) animal manure, and/or (2) recognizable or non-recognizable food wastes, and/or (3) waste generated by Agricultural Activities, (4) the storage of farm-generated waste, (5) household waste, or **waste generated from commercial activities which are not prohibited under this Local Law.**

8. **DELETERIOUS SUBSTANCE DISPOSAL/STORAGE FACILITY** - The term "Deleterious Substance Disposal/Storage Facility" shall mean 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 **any of the foregoing being** used for the storage or treatment of any Deleterious Substance that:
 - (i) are being held for initial use,
 - (ii) have been used and are being held for subsequent reuse,
 - (iii) are being held for treatment, or
 - (iv) are being held for storage.
9. **EXEMPTED VEHICLE** - The term "Exempted Vehicle" shall mean any of the following: (a) vehicles for agricultural activities, (b) school buses or other mass transit buses, (c) emergency vehicles, (d) military vehicles driven by active duty military personnel, (e) trucks or other motor vehicles, and apparatus related thereto (including trailers) used in the construction, repair, or maintenance of agricultural, residential, or commercial structures, or state, county, or town roads or other public structures or property, (f) motor vehicles, including trucks and trailers, used for personal use or for the commercial transport of goods, or (g) any vehicles which the Town Board, in its discretion, deems to **be utilized for purposes** that **are** not inconsistent with the intent of this Local Law.
 10. **EXPLORATION** - The term "Exploration" shall mean any geologic or geophysical activities related to the search for sub-surface minerals or hydrocarbons including prospecting, geophysical and geological seismic surveying and sampling.
 11. **GATHERING LINE, OR PRODUCTION LINE** - The term "Gathering Line, or Production Line" shall mean any system of pipelines (and other equipment such as drip stations, vent stations, pigging facilities, valve boxes, transfer pump stations, measuring and regulating equipment, yard and station piping, and cathodic protection equipment), **utilized** to move oil, gas, or liquids from a point of production, treatment facility or storage area to a transmission line, which is exempt from the Federal Energy Regulatory Commission's jurisdiction under section 1(b) of the Natural Gas Act, and which does not meet the definition of a "[M]ajor utility transmission facility" under the Public Service Law of New York, Article 7, § 120(2)(b).
 12. **HIGH-IMPACT TRUCK** - The term "High-Impact Truck" shall mean a truck or tractor, as defined in the NY Vehicle and Traffic Law, with a minimum of three axles, and/or ten wheels, capable of hauling a gross vehicle weight of 34,000 pounds or more. High-impact truck shall not include Exempted Vehicles.
 13. **HIGH-FREQUENCY, HIGH-IMPACT TRUCK TRAFFIC** - The term "High-Frequency, High-Impact Truck Traffic" shall mean any one of the following: (a) more than twenty (20) one-way High-Impact Truck trips to or from the site of the proposed **activity** during any twenty-four (24) hour period at any time during the duration of the **activity**; or (b) more than fifty (50) one-way High-Impact Truck trips to or from the site of the proposed **activity** during any seven (7) day period at any time during the duration of the **activity**;

or (c) more than seven hundred (700) one-way High-Impact Truck trips to or from the site of the proposed **activity** during any three hundred sixty-five (365) day period during the duration of the **activity**.

14. **HIGH-IMPACT INDUSTRIAL ACTIVITIES** - The term "High-Impact Industrial Activities" shall mean industrial **activities** or operations that are more likely than not to generate or involve any of the following impacts in the Town at any time during such **activity** or operation:
 - a. **an Industrial Activity** which will likely disturb the existing surface of more than two (2) acres of land (even if multiple, separate, and distinct components of the development activities take place at different times **or at different locations**);
 - b. **an Industrial Activity involving** the construction or **utilization** of more than 45,000 square feet of impervious surface;
 - c. the presence, production, collection, handling, manufacture, utilization, storage, transfer, or disposal of any Deleterious Substance;
 - d. High-Frequency High-Impact Truck Traffic;
 - e. an industrial operation that, whether due to its nature or **a decision** by the operator to employ financial resources most efficiently, or otherwise, is usually not limited to typical work days and morning to early evening hours, but rather, instead, is often conducted at any and all times of the day or night with either truck traffic entering or leaving the site, or producing other noise, vibrations or light that extends beyond the property boundaries;
 - f. Open Air Industrial **Activity**;
 - g. Open Air Storage of a Deleterious Substance;
 - h. flammable/explosive materials are present, used, produced, stored, or disposed of
 - i. the sequestering of water using 100,000 or more gallons;
 - j. the construction or **utilization** of a staging facility; or
 - k. the construction of pipelines, roadways, and other infrastructure to move product and materials to and from the project site.
15. **INDUSTRIAL ACTIVITY** - The term "Industrial **Activity**" shall mean any development activity, production, assembly, or manufacturing operation requiring machinery and equipment. This term does not include: (a) agricultural activities, solid mineral or substance mining (such as soil, gravel, sand, and stone), or forestry or timber harvesting, (b) residential use, (c) commercial use **not prohibited by this Local Law**, (d) telecommunication facilities or communication transmission towers, (e) wind turbines, windmills, or similar structures that do not release dust, dirt, fly ash, odors, fumes, or vapors or gases that could be injurious to human health or to the environment, or (f) a retail gas station facility.
16. **INJECTION WELL** - The term "Injection Well" shall mean 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 ninety (90) percent or

more of such fluids do not return to the surface within a period of ninety (90) days. The definition of Injection Well shall not include:

- (i) septic systems that receive solely residential or commercial waste;
- (ii) drainage wells used to drain surface fluids, primarily storm runoff, into the ground;
- (iii) geothermal wells associated with the recovery of geothermal energy for heating or production of electric power; or
- (iv) bore holes and wells drilled to produce potable water to be used as such.

- 17. **LAND APPLICATION FACILITY** - The term "Land Application Facility" shall mean a site where any Deleterious Substance or Natural Gas Exploration And/Or Petroleum Production Wastes are applied to the soil surface or injected into the soil or where any Deleterious Substance is applied to the soil surface or is injected into the soil, but shall not include the use of substances injected for agricultural **purposes** or in the drilling of water wells for residential, commercial, or non High-Impact Industrial **Activities**.
- 18. **LARGE SCALE WATER USAGE** - The term "Large Scale Water **Usage**" shall mean any water withdrawal or sequestering water **involving** of over 100,000 gallons of water in any thirty (30) day period from water resources within the Town. Large Scale Water **Usage** shall not include water drawn for agricultural **purposes**, for emergency **purposes** such as fire fighting, or for drinking, recreational, cooking washing, or sanitary purposes.
- 19. **NATURAL GAS** - The term "Natural Gas" shall mean 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 rarified state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.
- 20. **NATURAL GAS AND/OR PETROLEUM EXPLORATION ACTIVITIES** - The term "Natural Gas And/Or Petroleum Exploration Activities" shall mean 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 include or employ, but are not limited to, 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.
- 21. **NATURAL GAS AND/OR PETROLEUM EXPLORATION AND PRODUCTION EQUIPMENT OR MATERIALS** - The term "Natural Gas And/Or Petroleum Exploration And Production Equipment or Materials" shall mean any solid, semi-solid, liquid, semi-liquid or gaseous equipment or material **utilized** in the exploration or extraction of Natural Gas or Petroleum.

22. NATURAL GAS AND/OR PETROLEUM EXTRACTION ACTIVITIES - The term "Natural Gas And/Or Petroleum Extraction Activities" shall mean the digging or drilling of a well for the purposes of exploring for, developing, or producing Natural Gas, Petroleum, or other subsurface hydrocarbons.
23. NATURAL GAS AND/OR PETROLEUM SUPPORT ACTIVITIES - The term "Natural Gas And/Or Petroleum Support Activities" shall mean the construction, **utilization**, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a Natural Gas or Petroleum storage facility, or a Natural Gas or Petroleum Gathering Line, venting station, or compressor associated with the exploration or extraction of Natural Gas or Petroleum.
24. NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION, OR PRODUCTION WASTES - The term "Natural Gas And/Or Petroleum Exploration, Extraction, Or Production Wastes" shall mean any "Deleterious Substance" (defined above) in any form, including but not limited to, any garbage, refuse, cuttings, sludge, flow-back fluids, produced waters, or other discarded materials, including solid, liquid, semi-solid, or contained gaseous material that results from or is associated with the exploration, drilling, or extraction of Natural Gas and/or Petroleum.
25. NATURAL GAS COMPRESSION OR PETROLEUM FACILITY - The term "Natural Gas Compression Or Petroleum Facility" shall mean those facilities or combination of facilities that move Natural Gas or Petroleum from production fields or Natural Gas or Petroleum processing facilities in pipelines or into storage; the term shall include equipment for liquids separation, Natural Gas dehydration, and tanks for storage of waste liquids and hydrocarbon liquids.
26. NATURAL GAS OR PETROLEUM PROCESSING FACILITY - The term "Natural Gas Or Petroleum Processing Facility" shall mean those facilities that separate and recover Natural Gas liquids ("NGLs") and/or other non-methane gases and liquids or other Petroleum components from a stream of produced Natural Gas or Petroleum, 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 CO₂ separated from Natural Gas streams or components of Petroleum.
27. OPEN AIR INDUSTRIAL ACTIVITY - The term "Open Air Industrial Activity" shall mean an industrial **activity** that is not conducted in an enclosed structure and poses the potential for release of pollution via ground water, surface water, and air exposure pathways.
28. OPEN AIR STORAGE - The term "Open Air Storage" shall mean an Industrial **Activity** that includes storage outside of an enclosed building of raw materials, components, equipment, products, by-products, waste, Deleterious Substance, chemicals, or other

materials, either as a primary activity, or as an accessory **activity** or incidental to another activity.

29. PERSON - For the purposes of this Local Law, the term "Person" shall include any individual, proprietorship, society, club, firm, general or limited partnership, joint venture, public or private corporation, not-for-profit corporation, limited liability company, unincorporated association, estate, trust, government or governmental instrumentality, or any other entity, or any association of persons as defined herein, and the singular shall include the plural number; however, such definition shall not include Federal, State, or County governments or the Town of Otisco.
30. PETROLEUM - The term "Petroleum" shall mean a thick, flammable, yellow-to-black mixture of gaseous, liquid, and solid hydrocarbons, consisting of a complex mixture of hydrocarbons of various molecular weights and other liquid organic compounds that occurs naturally in geologic formations beneath the Earth's surface. It can be separated into fractions including Natural Gas, gasoline, naphtha, kerosene, paraffin wax, asphalt, and fuel and lubricating oils, and is used as raw material for a wide variety of derivative products. It is **thought** to originate from the accumulated remains of fossil plants and animals, especially in shallow marine environments.
31. POLLUTION - The term "Pollution" shall mean the contamination of the air, water, or earth by harmful or potentially harmful, noxious or toxic substances.
32. RADIOACTIVE MATERIAL - The term "Radioactive Material" shall mean 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.
33. RADIATION - The term "Radiation" shall mean the spontaneous emission of particles (alpha, beta, neutrons) or photons (gamma) from the nucleus of unstable atoms as a result of radioactive decay.
34. TOWN - For the purposes of this Local Law, the term "Town" shall mean the Town of Otisco located in the County of Onondaga, State of New York and "Town Board" shall refer to the Town of Otisco Town Board.
35. UNDERGROUND INJECTION - The term "Underground Injection" shall mean subsurface emplacement of Natural Gas And/Or Petroleum Exploration, Extraction, Or Production Wastes by or into an Injection Well.

36. UNDERGROUND NATURAL GAS OR PETROLEUM STORAGE - The term "Underground Natural Gas Or Petroleum Storage" shall mean subsurface storage, including in depleted gas or petroleum reservoirs and salt caverns, of Natural Gas or Petroleum that has been transferred from its original location for the primary purpose of load balancing the production of Natural Gas or Petroleum, and includes compression and dehydration facilities, and pipelines.

Section 5. SCOPE AND CONTROL

- A. During the effective period of this Local Law, no application for a permit, special permit, building permit, site plan approval, subdivision approval, or other approval shall be accepted, processed, approved, approved conditionally, or issued for the construction, establishment, development, implementation, placement, or operation of, and in any event, including any activity associated therewith or in furtherance thereof, and no person shall operate, conduct, commence operations of, or otherwise establish in the Town of Otisco, any High-Impact Industrial **Activity** or any **Activities** Having A High Potential For Degradation Of The Town's Character Or Natural Resources.
- B. During the effective period of this Local Law, the Codes Enforcement Officer of the Town shall not consider and/or issue any permit, special permit, building permit, site plan approval, subdivision approval, or other approval, which would result in the construction, establishment, development, implementation, placement, or operation of, including any activity associated therewith or in furtherance thereof, any High-Impact Industrial **Activity** or any **Activities** Having A High Potential For Degradation Of The Town's Character Or Natural Resources.

Section 6. PROHIBITED ACTIVITIES

- A. Subject to the provisions of sub-paragraph B, below, of this Section, it shall be prohibited and unlawful for any Person to cause or permit any land, Body of Water, building, or other structure located within the Town **to be utilized** for any of the following purposes:
- 1) Conducting activities for the exploration or extraction of Natural Gas and/or Petroleum, specifically including the following activities:
 - To** drill any well for Natural Gas and/or Petroleum, or;
 - To** transfer, store, process, or treat Natural Gas and/or Petroleum; or
 - To** dispose of Natural Gas and/or Petroleum exploration or production wastes; or
 - To** erect any derrick, building, or other structure; or
 - To** place any machinery or equipment for any such purposes.
 - 2) **To** store, transfer, treat, and/or dispose of Natural Gas and/or Petroleum exploration and production equipment or materials.
 - 3) **To** store, transfer, treat and/or dispose of Natural Gas and/or Petroleum exploration and production wastes.
 - 4) **To conduct** Natural Gas and/or Petroleum support activities.

- B. The prohibitions set forth above in sub-paragraph A of this Section, above, are not intended, and shall not be construed, to: (i) prevent or prohibit the transmission of Natural Gas through utility pipes, lines, or related appurtenances for the limited purpose of supplying Natural Gas utility services to residents of, or buildings located in the Town; or (ii) 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 **activities** within the Town, so long as such uses and activities do not involve any exploration for or extraction of Natural Gas and/or Petroleum, nor the storage, transfer, treatment, and/or disposal of Natural Gas and/or Petroleum exploration and production equipment or material, and/or Natural Gas and/or Petroleum exploration and production waste activities, and/or Natural Gas and/or Petroleum support activities.
- C. If the Town Board adopts any other local law, rules or regulations relating to any High-Impact Industrial **Activity** or any **Activities** Having A High Potential For Degradation Of The Town's Character Or Natural Resources, or affecting Natural Gas and Petroleum exploration and extraction, the underground storage of Natural Gas or Petroleum and/or the disposal of Natural Gas or Petroleum extraction, exploration or production wastes, then, in the event that such other Local Law may affect the ban imposed by this Local Law, then this Local Law shall expire only to the extent that it is affected by subsequent Town of Otisco local law, rules or regulations relating to any High-Impact Industrial Use or any Use Having High Potential for Degradation of the Town's Character or Natural Resources within the Town of Otisco, and if affected, it shall take effect in accordance with Section 27 of the Municipal Home Rule Law.
- D. The Town Board of the Town of Otisco may amend, modify, terminate, or extend this Local Law in accordance with applicable law.

Section 7. EXCEPTIONS.

Any lawful activity conducted on, or after the effective date of this Local Law pursuant to a Permit issued by the Town of Otisco or other appropriate state or federal agency may be continued, provided that such **activity** is in accordance with applicable law, and conforms to applicable permits and state or federal laws, rules and regulations, and shall not be modified, or enlarged or extended beyond the existing location and operation.

This Local Law shall not apply to activities involving the excavation and sale of topsoil, sand, gravel, clay, or other natural solid mineral deposits, or the quarrying of any kind of rock formation in the Town, nor the harvesting of timber, crops, or agricultural products in the Town. In addition, this Local Law shall not apply to the extraction, collection, storage, processing, treatment, or transfer of **oil and gas extracted entirely for consumption on the property from which it is extracted.**

Section 8. ENFORCEMENT.

This Local Law shall be enforced by the Codes Enforcement Officer of the Town of Otisco, or such other individual(s) or agencies as may be designated by the Town Board, and it shall be the duty of the enforcement individual(s) or agencies to advise the Town Board of all matters pertaining to the enforcement of this Local Law and to keep all records necessary and appropriate and to timely file the same in the Office of the Town Clerk.

Section 9. VIOLATIONS AND PENALTIES.

- A. Failure to comply with any of the provisions of this 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 (\$1,500.00) 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 (\$2,500.00) or imprisonment for a period of not more than 30 days, or both. For purposes of this subparagraph A, each day that a violation of this law exists shall constitute a separate and distinct offense.
- B. Compliance with this 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 Town by the Town Board.
- C. In the event the Town is required to take legal action to enforce this Law, the violator will be responsible for any and all necessary costs incurred by the Town relative thereto, including the Town's reasonable attorney's fees, costs, including Court costs and expenses, and such amount shall be determined and assessed by the Court. If such costs and expenses are not paid in full within thirty 30 days from the date it is determined and assessed by the Court, such costs and expenses shall be charged to the property(ies) within the Town on which the violation occurred, by including such costs and expenses in the next annual Town tax levy against such property(ies), and such costs and expenses shall be a lien upon such property(ies) until paid.
- D. In addition thereto, violations of this Local Law shall be subject to being restrained by injunctive relief.

Section 10. HARDSHIP EXEMPTION

There is hereby established a mechanism by which persons aggrieved by a decision or determination of the Town's Code Enforcement Officer regarding the application of any provision of this Local Law may make appeal to the Town Board for a Hardship Exemption from the provisions of this Local Law. The Town Board shall have the **authority** upon an appeal from a decision or determination of the Code Enforcement Officer or other administrative official or

body charged with the enforcement of this Local Law, after public notice and hearing and in accordance with the requirements of law, including this Local Law, to consider applications for a Hardship Exemption.

The Town Board of the Town of Otisco reserves to itself the power, in its sole discretion, to vary or adapt the strict application of the requirements of this Local Law or any portion hereof, in the case of unusual hardship or circumstances that would deprive a property owner of the reasonable use of the lands involved, provided the application is consistent with the intent of this Local Law. An application for relief plus 5 copies thereof shall be filed with the Town Clerk, together with a filing fee of \$250.00. The application shall identify the land involved, recite the nature of the proposed **activity to be conducted on** the land, provide a narrative description of the project, identify the circumstances pursuant to which the relief is sought, and set forth the reasons why the relief is claimed. The Town Board may require additional information and documentation relative to such hardship application, and may refer any application for relief to its consultants or legal counsel for their advice and recommendations. Any costs, including expert consulting fees, reasonable attorneys' fees, and other costs and expenses incurred by the Town shall be paid by the applicant immediately upon request from the Town or the application may be denied. The Town Board may conduct a Public Hearing on any request for relief. All decisions on granting or denying such relief shall be made solely by the Town Board as determined by the Town Board to be in the interest of the health, safety, and welfare of the Town.

Should the Town Board approve a hardship exemption, any activities by the applicant pursuant to such approval shall only be commenced after the Town Board issues a Certificate of Approval **and such activity may be continued only in compliance with any conditions contained in such Certificate of Approval.**

Section 11. CONFLICT WITH OTHER LAWS.

This Local Law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law of the State of New York. During the duration of times that this Local Law is in effect, to the extent permitted by law, it shall take precedence over and shall be considered controlling over contrary laws, ordinances and provisions including, but not limited to, the statutes set forth in the New York Town Law. Specifically, this Law is intended to supersede Town Law Sections 130, 261, 262, 263, 264, 265, 267, 267-1, 267-b, 268, 269, 274-1, 274-b, 276, 277, 278 and 279.

Section 12. SEVERABILITY.

If any clause, sentence, paragraph, section, article, subdivision, provision, or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be void, invalid or unenforceable, such adjudication or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations and only apply to the clause, sentence, paragraph,

section, article, subdivision, provision, or part thereof directly involved in the controversy in which such adjudication or judgment shall have been rendered or so adjudged, and the remainder of this Local Law shall remain valid and in full force and effect.

Section 13. EFFECTIVE DATE.

This Local Law #2 of 2012 shall become effective 20 days after filing with the Secretary of State.

Town Board of the Town of Otisco

Dated _____, 2012

Be it so Ordered by the Town Board of the Town of Otisco.

Wayne S. Amato, Town Supervisor

Tammy M. Ayers, Town Clerk