

LOCAL LAW FILING

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County
City

Town of Highland

Village

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STATE RECORDS

JUL 25 2011

DEPARTMENT OF STATE

Local Law No. 8 of the year **2011**.

A local law **“Establishing a Moratorium on High-Impact Industrial Uses and Certain Other Uses Having High Potential for Degradation of Community Character or Natural Resources.”**

Be it enacted by the **Town Board** of the

County
City

Town of Highland, as follows:

Village

Section 1. TITLE:

This Local Law shall be known as the “Moratorium on High-Impact Industrial Uses and Certain Other Uses Having High Potential for Degradation of Community Character or Natural Resources.”

Section 2. AUTHORITY; FINDINGS; STATEMENT OF LEGISLATIVE INTENT

201. Authority for Adoption. The Town Board hereby adopts this Local Law pursuant to the authority described at Section AA 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.

202. Findings of Fact. The Town Board has found, determined, and made the declarations set forth at Section BB of Appendix A attached hereto.

203. Purpose and Statement of Legislative Intent. The Purposes and Legislative Intent underlying the Town Board’s passage of this Local Law are set forth at Section CC of Appendix A attached hereto.

Section 3. DEFINITIONS

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

1. Building Inspector. Town of Highland Code Enforcement Officer.
2. Degradation of water. 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.
3. Deleterious substance. 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) 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, (b) crude oil or natural gas drilling fluids, (c) crude oil or natural gas exploration, drilling, production or processing wastes, (d) crude oil or natural gas drilling treatment wastes (such as oils, frac fluids, produced water, brine, flowback, sediment and/or any other liquid or semi-liquid material), (e) solution mining brine or mineral brines, (f) any chemical, waste oil, waste emulsified oil, mud, or sediment that was used or produced in the drilling, development, transportation, processing or refining of crude oil or natural gas, (g) soil contaminated in the drilling, transportation, processing or refining of crude oil or natural gas, (h) drill cuttings from crude oil or natural gas wells, (i) any wastes associated with the exploration, drilling, production or treatment of crude oil or natural gas, (j) waste from the extraction or processing of ores and minerals, including slag, mud, ash, and process waste water and waste solids, and (k) cement kiln dust. 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). Does not include (aa) animal manure and/or recognizable and non-recognizable food wastes, or (bb) storage of farm-generated waste.
4. Deleterious substance 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 deleterious substances 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.

5. Development Activity. Any man-made change in improved or unimproved land sub-surface and surface, including but not limited to: construction, external repair, land disturbing activity, grading, road building, pipe laying, or other activity resulting in a change in the surface or sub-surface physical character of any land, including clearing, grubbing, dredging, grading, excavating, extracting, exploration, stockpiling, paving, berming, soil disturbance, placement of fill, or storage of equipment or materials in pits, ponds or detention facilities. The scope of a development activity includes all activities that are necessary or convenient for the project that is being undertaken, such as associated infrastructure developments including pipelines, access roads, utility transmission facilities, drainage ditches and the like. For determining the area or extent of a development activity, a proposed project may not be segmented into smaller components, but rather the entire scope and larger common plan of development of a project shall be taken into account even though multiple separate and distinct land development activities may take place at different times on different schedules.
6. Exempted vehicle. Any of the following: (a) vehicles for agricultural use, (b) school buses or other mass transit buses, (c) emergency vehicles, (d) military vehicles driven by active duty military personnel, or (e) trucks used in the construction, repair or maintenance of state, county, or town roads or other public structures or property.
7. Exploration. Geologic or geophysical activities related to the search for sub-surface minerals or hydrocarbons including prospecting, geophysical and geological seismic surveying and sampling.
8. Explosive materials. Substances capable of undergoing decomposition or combustion with great rapidity, involving much heat and producing a large volume of gas. The reaction products fill a much greater volume than that occupied by the original material and exert an enormous pressure, which can be used for blasting and for propelling. Examples include TNT, dynamite, nitroglycerin, and ammonium nitrate.
9. Flammable. A solid, liquid or gas that will ignite easily and burn rapidly.
10. Gathering line, or Production line. Any system of pipelines (and other equipment such as drip stations, vent stations, pigging facilities, valve box, transfer pump station, measuring and regulating equipment, yard and station piping, and cathodic protection equipment), used 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 "Major utility transmission facility" under the Public Service Law of New York, Article 7, §120(2)(b).
11. High-Impact Truck. A truck or tractor, as defined in the Vehicle and Traffic Law, with a minimum of three axles, and/or ten wheels, and capable of hauling a gross vehicle weight

of 34,000 pounds or more. High-impact truck does not include exempted vehicles.

12. High-Frequency, High-Impact Truck Traffic. Any one of the following: (a) more than twenty (20) one-way high-impact truck trips to or from the site of the proposed use during any twenty four (24) hour period at any time during the duration of the use; or (b) more than fifty (50) one-way high-impact truck trips to or from the site of the proposed use during any seven (7) day period at any time during the duration of the use; or (c) more than seven hundred (700) one-way high-impact truck trips to or from the site of the proposed use during any three hundred sixty five (365) day period during the duration of the use.
13. High-Impact Industrial Use. High-impact industrial uses are industrial uses or operations that are more likely than not to generate or involve any four (4) or more of the following impacts in the Town at any time during such use or operation:
 - a. a development 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);
 - b. the presence, production, collection, handling, manufacture, use, storage, transfer or disposal of any deleterious substance;
 - c. high-frequency high-impact truck traffic;
 - d. an industrial use operation that, whether due to its nature or to a desire or need 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 and night with either truck traffic entering or leaving the site, or other noise, vibrations or light that extends beyond the property boundaries;
 - e. open air industrial use;
 - f. open storage;
 - g. flammable or explosive materials are present, used, produced, stored or disposed of;
 - h. a private electric power generation facility;
 - i. the sequestering water use of 500,000 or more gallons of water;
 - j. construction or use of more than 45,000 square feet of impervious surface;
 - k. construction or use of a staging facility; or
 - l. construction of pipelines, roadways and other infrastructure to move product and

materials to and from the proposed project site.

14. Industrial Use. Development activity, or production, assembly, harvesting, or manufacturing operation, requiring: machinery and equipment. Does not include: (a) agricultural or forestry use, (b) residential use, (c) commercial use, (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) retail gas station facility.
15. Land Application Facility. A site where any deleterious substance is applied to the soil surface or injected into the upper layer of the soil.
16. Large Scale Water Use. Any water withdrawal or sequestering water use of over 100,000 gallons of water in any thirty (30) day period from water resources within the Town. Large scale water use does not include water withdrawn for agricultural use, for emergency uses such as fire fighting, or for drinking, recreational, cooking, washing, or sanitary purposes and used within the Town.
17. Light-Impact Industrial use. The design, manufacture, or assembly of finished products or parts predominately from previously processed or prepared materials (including fabrication, treatment, packaging, and incidental storage, and sale and distribution of such products or parts); provided, that all operations are conducted entirely within an enclosed building, and provided, further, that such use: (i) does not produce or generate or otherwise involve on-site use or storage of deleterious substances, and (ii) does not involve high frequency, high-impact truck traffic, or any Use having High Potential for Degradation of Community Character or Natural Resources.
18. 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 CO₂ separated from natural gas streams.
19. Natural Gas Compression Facility. Those facilities or combination of facilities that move natural gas or oil 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.
20. Non-regulated Pipeline. Those pipelines that are exempt or otherwise excluded from regulation under federal and state laws regarding pipeline construction standards or reporting requirements. Specifically includes production lines and gathering lines.
21. Open Air Industrial Use. An industrial use that is not conducted in an enclosed structure

and poses the potential for release of pollution via groundwater, surface water, and air exposure pathways.

22. Open Air Storage. An industrial use that includes storage outside of an enclosed building of raw materials, components, equipment, products, by-products, waste, deleterious substances, chemicals or other materials, either as a primary activity, or as an accessory use or incidental to another activity or use.
23. Pipeline. All parts of those physical facilities through which oil, gas, liquids in transportation (including pipes, valves and other equipment and appurtenances attached to pipes and other equipment such as drip stations, vent stations, pigging facilities, valve box, transfer pump stations, measuring and regulating equipment, yard and station piping, and cathodic protection equipment) whether or not laid in public or private easement or private right of way within the Town. This includes, without limitation, gathering lines, production lines, and transmission lines.
24. Planning Board. Town of Highland Planning Board.
25. Pollution. The contamination or other diminution of the physical, chemical or biological properties of land, water, or air, including a change in taste, color, turbidity or odor, and including a discharge of any liquid, gaseous, solid, radioactive or other substance on land, water or air, that will, or is likely to, create a nuisance or render such land, water or air harmful, detrimental or injurious to humans, animal life, vegetation, or property, or to the public health, safety or welfare.
26. Private Electric Power Generation Facility. One or more power generators of more than one thousand (1,000) horsepower in the aggregate, fueled by diesel, oil, gas, propane or other fossil fuel, the primary function of which is the provision of electricity to an industrial use.
27. Private Water System. A system for the provision of water for human or animal consumption through pipes or other constructed conveyances, where such system has fewer than fifteen (15) service connections or regularly serves fewer than twenty-five (25) individuals.
28. Production line, or gathering line. Any system of pipelines (and other equipment such as drip stations, vent stations, pigging facilities, valve box, transfer pump station, measuring and regulating equipment, yard and station piping, and cathodic protection equipment), used 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 "Major utility transmission facility" under the Public Service Law of New York, Article 7, §120(2)(b).
29. Public Utility. A private or publicly owned facility that provides electric, gas, steam, telephone service, water or sewerage directly to the general public. A public utility

operates as a monopoly, and the rates it may charge are established by a utility commission.

30. Public Utility Facilities. Building, structures, and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures relating to the furnishing of utility services to the public by a public utility.
31. 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.
32. Radiation. The spontaneous emission of particles (alpha, beta, neutrons) or photons (gamma) from the nucleus of unstable atoms as a result of radioactive decay.
33. Sequestering Water Use. Water that is sequestered from the natural hydrologic cycle. Sequestering water use does not include water that has evaporated, transpired, been consumed by humans or livestock, used for irrigating crops, or otherwise returned to the atmosphere or incorporated into food products.
34. Town. Town of Highland, Sullivan County, New York.
35. Town Board. Town of Highland Town Board.
36. Transmission Line. a pipeline that transports oil, gas, or water to end users as a public utility and which is subject to regulation either by: (i) the Federal Energy Regulatory Commission's jurisdiction under section 1(b) of the Natural Gas Act, or (ii) as a "Major utility transmission facility" under the Public Service Law of New York, Article 7, §120(2)(b).
37. Uses Having High Potential for Degradation of Community Character or Natural Resources. Any one or more of the following:
 - (a) Deleterious substance disposal/storage facility;
 - (b) Disposal of radioactive material;
 - (c) Extractive industry;
 - (d) High-impact industrial use;
 - (e) Injection well;
 - (f) Land application facility;
 - (g) Large scale water use;
 - (h) Natural gas compression facility;
 - (i) Natural gas processing facility;

- (j) Non-regulated pipeline;
- (k) Solid waste disposal facility;
- (l) Staging facility;
- (m) Terminal for bulk oil or gas;
- (n) Underground injection of deleterious substances;
- (o) Underground natural gas storage; and
- (p) Any use of land that is likely to result in degradation of private water systems in the Town.

38. Underground Injection. Subsurface emplacement of fluids by well injection.

39. 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, and pipelines.

40. Water, Water Resources. All streams, ditches, lakes, ponds, marshes, vernal pools, watercourses, waterways, wells, springs, drainage systems, and all other bodies or accumulations of water, surface or underground, intermittent or perennial, which are contained in, flow through or border upon the Town or any portion thereof.

41. Water Withdrawal. Removal or capture of water from water resources within the Town.

Section 4. MORATORIUM.

A. From and after the date of this Local Law, no application for a permit, special permit, zoning variance, building permit, site plan approval, subdivision approval or other approval shall be accepted, processed, approved, approved conditionally, or issued for the construction, establishment, or operation of, and in any event no person shall operate, conduct, commence operations of, or otherwise establish in the Town of Highland, any High-Impact Industrial Use or any other Use Having High Potential for Degradation of Community Character or Natural Resources.

B. This moratorium 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 six (6) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating the Town Board has determined

that the need for this moratorium no longer exists.

C. This moratorium shall apply to all real property within the Town.

D. Under no circumstances shall the failure of the Town Board, the Board of Appeals, the Planning Board, or the Building Inspector to take any action upon any application for a permit, special permit, zoning variance, building permit, site plan approval, subdivision

approval, or other approval constitute an approval by default or approval by virtue of expiration of time to respond to such application.

Section 5. PENALTIES.

Any person, firm, entity or corporation who or which shall undertake or permit the use of, development upon, erection upon, or alteration of, any lands or buildings in violation of the provisions of this Local Law, or who or which shall otherwise violate any of the provisions of this Local Law, shall be:

1. be guilty of an offense punishable by a fine not exceeding \$250.00 or imprisonment not to exceed six (6) months, or both. Each week's continued violation shall constitute a separate offense.; and
2. be subject to injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to abate or remove any construction or improvements which may have been built in violation of this Local Law.

Section 6. HARDSHIP WAIVER VARIANCE.

The Board of Appeals is hereby authorized to accept and review requests for a hardship waiver variance from application of the provisions of this Local Law, in the case of 'unnecessary hardship' to the applicant as defined in New York Town Law Section 267-b (2)(b), upon submission of a written application to the Town Clerk by the property owner seeking a hardship waiver variance to this moratorium together with an application fee of \$500.00. The Board of Appeals shall, within forty-five (45) days of receipt of such application, schedule a public hearing on such application. A notice of such hearing shall be given at least five (5) days prior to the date thereof in the official newspaper of the Town. The application shall specifically recite the nature of the proposed use of land, the circumstances pursuant to which the variance is sought, the reasons for which the variance is needed, and the alleged conditions of unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not mean the mere delay in being permitted to make an application during the period of the moratorium imposed by this Local Law. The Board of Appeals, upon receipt of any application for a hardship waiver herein, may refer the application to any and all of the Sullivan County Department of Planning, the Town of Highland Planning Board, the Town of Highland Zoning Board of Appeals, the Town of Highland Comprehensive Plan Committee, the Upper Delaware Council, the Attorney for the Town, the Town Engineer, for their advice and recommendations. If one or more such referrals are made, the agency, committee and/or consultant to whom the referral is made, shall present their reports and recommendations to the Board of Appeals within thirty (30) days after the referral is made. The Board of Appeals shall not, however be required to follow any such

recommendations or advice it receives in making its determination. Referrals should also be made to the Sullivan County Department of Planning to the extent required by General Municipal Law Section 239. The Board of Appeals shall within forty-five (45) days of the close of the public hearing issue its final decision on the request for a hardship waiver variance.

No hardship waiver variance shall be granted by the Board of Appeals unless the Board of Appeals shall find and determine, and shall set forth in its resolution granting such variance, that:

- a. Failure to grant the variance to the applicant will cause the applicant "unnecessary hardship" as that term is defined in Section 267-b(2)(b) of the Town Law, and such hardship is substantially greater than any harm to the general public welfare which will result from the granting of the variance;
- b. The grant of the variance will clearly have no adverse effects on any of the Town's goals or objectives as set forth in the Town's proposed Comprehensive Plan, and the use, project or activity will not be detrimental to the community's resources or character as described in the Town's proposed Comprehensive Plan; and
- c. The project or activity for which the applicant seeks a variance is in harmony and consistent with the proposed Comprehensive Plan and with any interim data, recommendations and/or conclusions which, to date, have been promulgated, produced or drafted by the Town's Consultants as recommendations for amendments to, or enactment of new, Land Use Laws or Regulations.

The burden of proving that the application for a hardship waiver variance meets the criteria as set forth in this Local Law shall be upon the applicant, and such showing must be made by competent proof and evidence. All requirements of the State Environmental Quality Review Act shall apply with respect to such application proceedings.

In the event the Board of Appeals grants a hardship waiver variance from the provisions of this Local Law to the applicant, the applicant shall be required to comply with all provisions of the Town's current (as of the effective date of this Local Law) zoning laws and other laws and regulations, and any amendments to such law or regulations which may be enacted during the term of this Local Law. Any hardship waiver 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 7. VALIDITY.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof adjudicated to be invalid.

Section 7. SUPERSEDING EFFECT.

During the time this Local Law is in effect, it is the specific intent of the Town Board, pursuant to Municipal Home Rule Law § 10(1)(ii)(d)(3) and §22, to supersede: (a) any inconsistent provisions set forth in Town Law § 265(1); § 267-a, § 267-b, §272-a, §274-a, §274-b; § 276, § 277, § 278, and § 279; (b) any other inconsistent provisions set forth in Article 16 of the Town Law; (c) any inconsistent time limits set forth in Section 8-0109 of the Environmental Conservation Law; (d) any inconsistent provisions of the Zoning Code of the Town of Highland; and (e) any inconsistent provisions of any and all other local ordinances, local laws or local resolutions of the Town of Highland.

Section 8. EFFECTIVE DATE.

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

APPENDIX A
ATTACHED TO AND FORMING A PART OF
TOWN OF HIGHLAND (NY) LOCAL LAW NO. 2 of the YEAR 2011,
known as
“MORATORIUM ON HIGH-IMPACT INDUSTRIAL USES
AND
CERTAIN OTHER USES HAVING HIGH POTENTIAL FOR DEGRADATION
OF COMMUNITY CHARACTER OR NATURAL RESOURCES.”

The Moratorium on High-Impact Industrial Uses and Certain Other Uses Having High Potential for Degradation of Community Character or Natural Resources 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 AA. Authority. This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Highland 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); Town Law § 64 (17-a), (20-b), and (23); Town Law § 130(5), (6), (7), (8), (11), (14), (15), and (23); Town Law § 135; Town Law Article 16 (Zoning & Planning) 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 Town 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 zoning law that is concerned with the broad area of land use planning and the physical use of land and property within the Town, including the proper location for varying land use activities within the Town and 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 BB. Findings of Fact.

1. Highland is a community in the Upper Delaware River Region that takes great pride in its rural residential character, scenic and other natural resources, and small-town atmosphere.
2. Preservation of the Town's irreplaceable historic, recreation, and tourism sites, air quality and water quality, and priceless and unique character, is of significant value to the inhabitants of the Town and to the tourists who visit here.
3. The Town's rich natural and visual environment is a valuable asset that creates a sense of identity and well-being for residents of the area. Preserving and protecting the scenic and other natural resources of the Town 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.
4. The High-Impact Industrial Uses and Other Uses Having High Potential for Degradation of Community Character or Natural Resources defined in of this Law would impair the existing character of the Town, because by their very nature such uses 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.
5. If one or more of the High-Impact Industrial Uses or Other Uses Having High Potential for Degradation of Community Character or Natural Resources defined in this Law are conducted within the Town, traffic generated thereby could be hazardous or inconvenient to the inhabitants of the Town 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. 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.

6. Allowing one or more of the High-Impact Industrial Uses or Other Uses Having High Potential for Degradation of Community Character or Natural Resources defined in this Law to be conducted within the Town could negatively impact the tourism industry within the Town, and could impair the Town's ability to attract additional tourism-related businesses.
7. If one or more of the High-Impact Industrial Uses or Other Uses Having High Potential for Degradation of Community Character or Natural Resources defined in this Law are conducted within the Town, the air pollution, dust and odors generated thereby (whether onsite or by truck traffic to and from the proposed site) could be hazardous or inconvenient to the inhabitants of the Town. Air pollution is a known hazard to the public health.
8. Allowing one or more of the High-Impact Industrial Uses or Other Uses Having High Potential for Degradation of Community Character or Natural Resources defined in this Law to be conducted within the Town could negatively impact the quality of water resources within the Town. 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 High-Impact Industrial Uses or Other Uses Having High Potential for Degradation of Community Character or Natural Resources defined in this Law are conducted within the Town, noise, vibrations, and light caused by the proposed operation could be hazardous or inconvenient to the inhabitants of the Town. 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 deleterious substances within the Town could have a negative impact on the public health, safety and welfare of the inhabitants of the Town.
11. The high costs associated with the disposal of deleterious substances have in

other localities resulted, and could in our Town 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 Town.

Section CC. Purposes and Legislative Intent. The purpose of this Local Law is to enable the Town of Highland to stay the construction, operation, and establishment of, and the submission and processing of applications for permits, special permits, zoning variances, building permits, site plan approvals, subdivision approvals, and other approvals respecting, High-Impact Industrial Uses and other Uses Having High Potential for Degradation of Community Character or Natural Resources, for a reasonable time pending completion of review and revision of the Town's Comprehensive Plan, and so as to allow the Town time to study the impacts, effects, and possible controls over such Uses and to consider amendments to the Town's zoning laws to address the same. The Town Board finds that a moratorium of six (6) month's 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 Town of Highland and the health, safety and general welfare of its residents, and the rights of individual property owners or businesses desiring to conduct such Uses (on the other) during such period.