Town of Spafford

Proposed Local Law No. 2 of the Year 2012

A local law to amend and supplement the Zoning Code of the Town of Spafford by:

Confirming and Clarifying that any Uses not Expressly Permitted are Prohibited;
Articulating Certain Explicitly Prohibited Uses; Removing Certain Exceptions;
Adding Certain New Definitions, and Changing Certain Existing Definitions; and
Modifying, Clarifying, and Adding to the Provisions Regarding Special Use Permits, Area
and Use Variances Generally, and Use Variances Respecting Explicitly Prohibited Uses,
Specifically.

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

Article I. General Provisions

Section 1.1. Authority for Adoption

The Town Board hereby adopts this Local Law pursuant to the authority described in
the Town Law of The State of New York.

Section 1.2. Findings of Fact

The Town Board has heretofore made certain findings, determinations, and
declarations relative to the matters set forth in this Local Law and enacted a
Moratorium and a copy of the text of such findings, determinations, and declarations is
set forth at Section 1. of Appendix A attached hereto (Moratorium).

Section 1.3. Purpose & Intent

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

Section 1.4. Definition of “Existing Zoning Law,” this “Local Law,” and “this “Law”

As used in this Local Law, the term “Existing Zoning Law” shall mean and be the Zoning
Ordinance of the Town of Spafford adopted January 14th, 2010, Amended May 12th,
2011, and as heretofore amended.
As used herein, the term this "Local Law" shall mean and be this Local Law No. 2 of 2012.

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

Section 1.5. Interpretation

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

Article II. Amendments of Existing Zoning Law

2.1. Amendments to Article 1-Word Uses and Definitions of the Existing Zoning Law

A. Article 1-5 of the Existing Zoning Law is hereby further amended so as to delete the present definitions of "Mine" in the entirety, and so as to substitute the following text thereof:

"Mining and excavation" - Any of the following activities: (a) the extraction of overburden and minerals from the earth; (b) the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, sorting, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; (c) the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; (d) the disposition of overburden, tailings and waste at the mine location; or (e) any combination of the above activities. In no event shall "mining" be construed to mean, be, or include Natural Gas And/Or Petroleum Exploration Activities or Natural Gas And/Or Petroleum Extraction Activities (as those terms are respectively defined in Section 6A.4. of this Law), nor shall "mining" include the excavation, removal and disposition of minerals from the site of, and incidental to, a construction project, or excavations incidental to bona fide Farm Use activities provided, however, that such excavations, removal and disposition incidental to construction shall have received and be in compliance with all fill permits required by law. For the purpose of this definition:
(i) minerals - mean any naturally formed, usually inorganic, solid material located on or below the surface of the earth. "Minerals" include, but are not limited to, peat, topsoil, gravel, and stone. "Minerals" does not include Natural Gas (as that term is defined in Section 6A.4. of this Law)."

(ii) overburden - means all of the earth, vegetation and other materials that lie above or alongside a mineral deposit.

(iii) spoil and tailings - have the meanings given to them by Article 23 of the NYS Environmental Conservation Law or any similar or successor statute."

B. Article 1-5 of the Existing Zoning Law is hereby further amended so as to delete the present defined term "Public Utilities" and the present definition thereof in the entirety, and so as to substitute the following text therefor:

"Public Utility/Use - An entity which operates as a monopoly, and whose rates charged to customers are established by a utility commission. A public utility use is a facility which is operated by a public utility, and which provides electric, gas, steam, telephone service, water or sewerage directly to the general public."

C. Article 1-5 of the Existing Zoning Law is hereby further amended so as to delete the present definition of "Special Permit Use" in the entirety, and so as to substitute the following text therefor:

"Special Permit Use - A use which because of its unique characteristics requires individual consideration through a procedure of review by the Zoning Board, in order to determine whether a special use permit should be granted, conditionally granted, or denied."

2.2. Amendments to Article VI-Zoning District Regulations

A. Article 6-1(B) "Permitted Uses "of the Existing Zoning Law (Permitted Uses) is also hereby amended to add at the end of the section the following language:

"Any use not specifically set forth as a permitted use in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district. Except as otherwise provided herein: (a) no land
shall be cleared, excavated, or graded, no building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof shall be erected, moved or altered, unless in conformity with the regulations herein specified for the district in which it is located; and (b) no building or structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, or side yards, than is specified herein for the district in which such building or structure is located."

B. Article 6-2(B) "Permitted Uses" of the Existing Zoning Law (Permitted Uses) is also hereby amended to add at the end of the section the following language:

"Any use not specifically set forth as a permitted use in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district. Except as otherwise provided herein: (a) no land shall be cleared, excavated, or graded, no building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof shall be erected, moved or altered, unless in conformity with the regulations herein specified for the district in which it is located; and (b) no building or structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, or side yards, than is specified herein for the district in which such building or structure is located."

C. Article 6-3(B) "Permitted Uses" of the Existing Zoning Law (Permitted Uses) is also hereby amended to add at the end of the section the following language:

"Any use not specifically set forth as a permitted use in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district. Except as otherwise provided herein: (a) no land shall be cleared, excavated, or graded, no building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof shall be erected, moved or altered, unless in conformity with the regulations herein specified for the district in which it is located; and (b) no building or structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, or side yards, than is specified herein for the district in which such building or structure is located. "
2.3 Amendment of Article VII Regulations Applicable to All Zoning Districts—Addition of Article 7-24 at end of section to add "Explicitly Prohibited Uses; Prohibition Against Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes"

7-24 Explicitly Prohibited Uses. The following uses and activities (being respectively defined below) are hereby expressly and explicitly prohibited in each and every zoning district within the Town, and no building or structure shall be created, altered or erected, and no body of water, land or building thereon shall be used, for any of such uses or activities:

(a) Land Application Facility;
(b) Natural Gas And/Or Petroleum Exploration Activities;
(c) Natural Gas And/Or Petroleum Extraction Activities;
(d) Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Disposal/Storage Facility;
(e) Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump;
(f) Natural Gas Compression Facility;

(g) Natural Gas Processing Facility;

(h) Non-regulated pipelines;
(i) Underground Injection; and
(j) Underground Natural Gas Storage.
Any condition caused or permitted to exist in violation of this Section 6A.1. is a threat to public health, safety and welfare, and is hereby declared and deemed to be a nuisance. Collectively the above expressly prohibited uses may be referred to in this law as "Explicitly Prohibited Uses," any one of the above Expressly Prohibited Uses may be referred to in this law as an "Explicitly Prohibited Use," and any combination of more than one such use may also be referred to as "Explicitly Prohibited Uses."

7-24 (a) Prohibition against Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes. The Town of Spafford hereby exercises its authority and right under NY ECL § 27-0711 to adopt a local law that is consistent with the Environmental Conservation Law Article 27, such consistency demonstrated by the fact that this Local Law complies "with at least the minimum applicable
requirements” set forth in such statute, and the rules and regulations promulgated pursuant to said Article 27.

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

7-24(b) No Application to Customary Local Distribution Lines, Etc. The prohibitions set forth above in this Section, are not intended, and shall not be construed, to (x) prevent or prohibit the right to use roadways in commerce or otherwise for travel; (y) prevent or prohibit the transmission of natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supplying natural gas to residents of or buildings located in the Town; or (z) prevent or prohibit the incidental or normal sale, storage, or use of lubricating oil, heating oil, gasoline, diesel fuel, kerosene, or propane in connection with legal Farm, residential, business, commercial, and other uses within the Town. This language would not prohibit a farm from legally moving gas.

7-24 (c) Defined Terms. For purposes hereof, and in addition to the terms defined in Section 2.2 of this Law, the following terms shall have the meanings respectively set forth below:

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

Gathering Line, Or Production Line --- Any system of pipelines (and other equipment such as drip stations, vent stations, pigging facilities, valve boxes, 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).
Injection Well --- A bored, drilled or driven shaft whose depth is greater than the largest surface dimension, or a dug hole whose depth is greater than the largest surface dimension, through which fluids (which may or may not include semi-solids) are injected into the subsurface and less than ninety (90) percent of such fluids return to the surface within a period of ninety (90) days.

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

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

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

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

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

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

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

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

Natural Gas Processing Facility --- Those facilities that separate and recover natural gas liquids (NGLs) and/or other non-methane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or
stripping gas, cooking and dehydration, residual refinement, treating or removing oil or condensate, removing water, separating NGLs, removing sulfur or carbon dioxide, fractionation of NGLs, or the capture of CO2 separated from natural gas streams.

Non-Regulated Pipelines --- Those pipelines that are exempt or otherwise excluded from regulation under federal and/or state laws regarding pipeline construction standards or reporting requirements. Specifically includes production lines and gathering lines.

Pipeline --- All parts of those physical facilities through which petroleum, gas, hazardous liquids, or chemicals move 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 boxes, 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.

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

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

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

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: (a) the Federal Energy Regulatory Commission’s jurisdiction under section 1(b) of the Natural Gas Act, or (b) as a “Major utility transmission facility” under the Public Service Law of New York, Article 7, §120(2)(b).
Underground Injection --- Subsurface emplacement of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes by or into an Injection Well.

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

2.4 Amendment of Article VII Regulations Applicable to All Zoning Districts-Addition of Article 7-25 the Existing Zoning Law is hereby amended so as to insert the following new Article 7-25 therein, said new Section 7-25 to be inserted immediately after the text of present Section 7-24:

"Section 7-25- Pre-Existing, Legal Non-Conforming Natural Gas And/Or Petroleum Extraction Activities

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

1. If, as of the effective date of this Local Law, substantive Natural Gas And/Or Petroleum Extraction Activities are occurring in the Town, and those activities are in all respects being conducted in accordance with all applicable laws and regulations, including without limitation all valid permits required to be issued by the New York State Department of Environmental Conservation ("DEC") and all other regulating agencies for such activities, then and only then such Activity shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of Clauses b. and c. of this Article 7-25.

2. Natural Gas And/Or Petroleum Extraction Activities that are being conducted in the Town as of the effective date of this Local Law and which do not qualify for treatment under the preceding Clause 1. of this Article 7-25 shall not be grandfathered, and shall in all respects be prohibited as contemplated by Article VII hereof.

b. Upon the depletion of any well which is allowed to remain in operation after the effective date of this Local Law by virtue of Clause 1. of this Article 7-25, or upon any other substantive cessation of Natural Gas And/Or Petroleum Extraction Activities (otherwise grandfathered by virtue of Clause 1. of this Article 7-25 for a period of more than twelve (12) months, then and in such event the non-conforming use status of such
Activity shall terminate, and thereafter such Natural Gas And/Or Petroleum Extraction Activities shall in all respects be prohibited as contemplated by Section 6A hereof.

c. Notwithstanding any provision hereof to the contrary, the pre-existing, non-conforming status conferred and recognized by Clause 1. of this Article 7-25 is not intended, and shall not be construed, to authorize or grandfather any Natural Gas And/Or Petroleum Extraction Activities extending beyond whatever well bore is authorized in any DEC permit in existence as of the effective date of this Local Law. Any expansion or attempted or purported expansion shall not be grandfathered under Clause 1. of this Article 7-25, and instead shall in all respects be prohibited as contemplated hereof."

2.5 Amendment to Article VII 26 of the Existing Zoning Law

Article 7 of the Existing Zoning Law is hereby amended so as to insert the following text as (new) clause 7-26 thereof, said new text to be inserted immediately following the text of clause 7-25 of said Section 7-25:

"Any person who violates or is accessory to the violation of any provision of Article 6A hereof, which shall include without limitation any person who owns, occupies or uses any building, structure or premises which is in violation of any provision of Article 6A hereof, shall be guilty of an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the NYS Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars ($2,500) or imprisonment for not more than ten (10) days, or both, for the first offense. Any subsequent offense within a three (3) month period shall be punishable by a fine of not more than Five Thousand Dollars ($5,000) or imprisonment for a period of not more than thirty (30) days, or both. For purposes of this Section 18.2, each week (or portion thereof) that a violation of Article 6A of this Law exists shall constitute a separate and distinct offense."

2.6. Amendment to Article 15-13 (Severability) of the Existing Zoning Law

Article 15-13 of the Existing Zoning Law is hereby amended so as to delete the present text thereof (beginning "If any part or provision of this Local Law ...") in the entirety, and so as substitute the following text therefor:
“Invalidity and Severability: If any word, phrase, sentence, part, section, subsection, or other portion of this Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board hereby declares that it would have enacted this Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.”

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

2.7. Effective Date of this Local Law

This Local Law shall be effective upon filing with the office of the Secretary of State, and the Town Clerk is directed to immediately file a copy of this Local Law with the New York State Secretary of State as required by law.
Proposed Town of Spafford Local Law 2011-3:

A Local Law Placing a 180-Day Moratorium on
Hydraulic Fracturing Activities Within the Town

Section 1. Title

This law will be known as the 2011 Moratorium Law on Hydraulic Fracturing and/or Hydrofracking of the Town of Spafford.

Section 2. Legislative Intent

A. The Town Board of the Town of Spafford is vested by the State of New York with the authority to regulate certain activity within the Town of Spafford to protect the health, safety, and welfare of its residents and the environment. The Town of Spafford has legitimate goals and aims to protect the community, and the cultural, historical, recreational and environmental resources within the Town, and 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 land uses and to protect the environment from potential negative impacts.

B. The Town Board recognizes the importance of finding and developing sources of natural gas energy for 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 for decades. 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 using the hydraulic fracturing method, commonly referred to as "hydrofracking," may be a significant benefit to economic activity.

C. However, the Town Board is also concerned with the potential for damage to the environment posed by hydrofracking, particularly adverse impacts to groundwater quality and quantity, the potential for sediment and soil erosion and the release of naturally occurring radioactive materials, among others. Hydrofracking requires the use of large amounts of water, including the use of surface water (rivers, streams, ponds, basins, lakes), groundwater, wastewater, and other water sources. Further, the use of hydrofracking will create more demand for commercial wastewater treatment facilities to dispose of water byproduct. The Town Board is concerned with the potential for groundwater pollution, affecting many water wells and water sources in the Town, as well as the potential environmental impacts to water quality in Otisco Lake and Skaneateles Lake, which are the primary sources of drinking water for numerous municipalities in the region. There may also be further impacts to local roads during the construction and use of hydrofracking apparatus.
D. The use of hydrofracking has generated significant concern about the safety and reliability of this method to extract natural gas. As a result of these concerns, the Town Board believes that additional study and examination of necessary regulations relating to hydrofracking is warranted.

E. The Town Board is well aware of the current review of hydrofracking by the New York State Department of Environmental Conservation (“NYSDEC”) and other governmental agencies and by private sources, including an assessment of the various potential environmental impacts from hydrofracking, analysis of the state laws, rules and regulations currently in place and the potential for additional regulations at the state or federal levels relating to hydrofracking. The Town Board has considered imposing a moratorium period to allow the Town Board time to review any further findings and any additional state or federal laws, rules or regulations, which would necessarily impact the role of the Town in the regulation of hydrofracking activity at the local level.

F. A moratorium would also allow necessary time for the Town Board to further examine potentially significant issues related to hydrofracking and examine whether local regulations relating to hydrofracking are necessary, and if so, the extent of such regulations. If the Town Board deems such local 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.

G. The Town of Spafford does hereby find 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 hydrofracking and to consider recommendations relating to hydrofracking. A moratorium of six (6) months will prevent the establishment or continuation of hydrofracking processes 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 adoption of this moratorium pending the issuance of final regulations by the Town of Spafford or by other governmental agencies.

Section 3. Enactment of Local Law

The Town Board declares a six-month moratorium on any activity or processes involving or associated with hydraulic fracturing or hydrofracking, including the continued use of hydraulic fracturing or hydrofracking within the Town of Spafford and the establishment, implementation, placement, or construction of new hydraulic fracturing or hydrofracking facilities or apparatus in the Town of Spafford after the effective date, and during the duration of this Local Law, and any extension hereof.

Section 4. Definitions

HYDRAULIC FR. ACTURING OR HYDROFRACKING - For purposes of this Local Law, the term "hydraulic fracturing" or "hydrofracking" shall mean the process of
recovering and/or developing natural gas trapped behind or within shale or rock and which generally is accomplished by a gas well that is drilled vertically into the ground and then horizontally from the well head, after which water, sand, and/or chemicals are injected into the well for the breaking and/or fracturing of shale and/or other natural structures under the ground intending to release natural gas from the ground.

PERSON - For the purposes of this Local Law, the term "person" shall include an individual, or the association of individuals, partnership, joint venture, corporation, limited liability company, or any other entity, and the singular shall include the plural number.

Section 5. Scope and Control

A. For the period of six (6) months following the effective date of this Local Law, no new hydraulic fracturing or hydrofracking facilities or operations, as defined by this Local Law, or expansions beyond existing operations or facilities, shall be permitted by any person within the Town of Spafford.

B. During the effective period of this Local Law, the Code 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 hydraulic fracturing or hydrofracking facility or operation, including any activity associated therewith or in furtherance thereof, or the enlargement of any existing hydraulic fracturing or hydrofracking facility or operation within the Town.

C. If within six (6) months, the Town Board adopts a local law, rules or regulations relating to hydrofracking, then, in that event the moratorium imposed by this Local Law shall expire immediately on the date any such Town of Spafford local law, rules or regulations relating to hydraulic fracturing or hydrofracking takes effect in accordance with Section 27 of the Municipal Home Rule Law.

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

Section 6. Exceptions

The lawful use of any premises or apparatus on or after the effective date of this Local Law under a permit issued by the Town of Spafford or other appropriate state or federal agency may be continued, provided that such use conforms to applicable permits and state or federal laws, rules and regulations and shall not be enlarged or extended beyond the existing location and operation.

Section 7. Enforcement
This Local Law shall be enforced by the Code Enforcement Officer of the Town of Spafford, or such other individual(s) as may be designated by the Town Board, and it shall be the duty of the enforcement individual(s) 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 file the same in the Office of the Town Clerk.

Section 8. Violations

Any person violating any of the provisions of this Local Law shall be guilty of an offense, and upon a conviction thereof, shall he subject to a civil penalty of not less than $500.00 nor more than $1,000.00 per day for each such violation. Each day's violation for any separate and individual violation shall constitute a separate and additional violation. An action may be commenced in a court of competent jurisdiction to recover such penalty. In addition thereto, violations of this Local Law shall be subject to being restrained by injunctive relief.

Section 9. 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. While 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.

Section 10. 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 in the State of New York 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 clauses sentence, paragraph, section, articles 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 11. Effective Date

This Local Law shall become effective immediately upon filing with the Secretary of State.
RESOLUTION 50-2011  
Enacting Local Law 2011-3  
A Local Law Placing a 180-Day Moratorium on Hydraulic Fracturing Activities Within the Town

The following resolution was moved by Councilor Clark, seconded by Councilor Ireland and  
PASSED  
AYES – 3  Stevens, Clark, Ireland  
NAYS – 1  Lieberman  

WHEREAS, a Local Law has been introduced before the Board, to wit: Local Law No. 2011-3 of the Town of Spafford, the content of which is set forth below; and  
WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “SEQRA”), the adoption of the aforesaid Local Law qualifies as a Type II action, which requires no further review under SEQRA; and  
WHEREAS, the Town Board of the Town of Spafford, County of Onondaga, State of New York, held a Public Hearing on the matter of the adoption of the aforesaid Local Law, and that such Public Hearing was held at the Town Hall of the Town of Spafford, located at 1984 Route 174 in Skaneateles, County of Onondaga, State of New York, on the 8th day of September, 2011, at 7:00 p.m., and all persons in interest and citizens desiring to be heard had an opportunity to be heard; and  

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Spafford hereby enacts Local Law No. 2011-3, the content of which is as follows:

Town of Spafford Local Law 2011-3:  
A Local Law Placing a 180-Day Moratorium on Hydraulic Fracturing Activities Within the Town

Section 1.  Title  
This law will be known as the 2011 Moratorium Law on Hydraulic Fracturing and/or Hydrofracking of the Town of Spafford.

Section 2.  Legislative Intent  
A.  The Town Board of the Town of Spafford is vested by the State of New York with the authority to regulate certain activity within the Town of Spafford to protect the health, safety, and welfare of its residents and the environment. The Town of Spafford has legitimate goals and aims to protect the community, and the cultural, historical, recreational and environmental resources within the Town, and 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 land uses and to protect the environment from potential negative impacts.

B.  The Town Board recognizes the importance of finding and developing sources of natural gas energy for 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 for decades. 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 using the hydraulic fracturing method, commonly referred to as ”hydrofracking,” may be a significant benefit to economic activity.
C. However, the Town Board is also concerned with the potential for damage to the environment posed by hydrofracking, particularly adverse impacts to groundwater quality and quantity, the potential for sediment and soil erosion and the release of naturally occurring radioactive materials, among others. Hydrofracking requires the use of large amounts of water, including the use of surface water (rivers, streams, ponds, basins, lakes), groundwater, wastewater, and other water sources. Further, the use of hydrofracking will create more demand for commercial wastewater treatment facilities to dispose of water byproduct. The Town Board is concerned with the potential for groundwater pollution, affecting many water wells and water sources in the Town, as well as the potential environmental impacts to water quality in Otisco Lake and Skaneateles Lake, which are the primary sources of drinking water for numerous municipalities in the region. There may also be further impacts to local roads during the construction and use of hydrofracking apparatus.

D. The use of hydrofracking has generated significant concern about the safety and reliability of this method to extract natural gas. As a result of these concerns, the Town Board believes that additional study and examination of necessary regulations relating to hydrofracking is warranted.

E. The Town Board is well aware of the current review of hydrofracking by the New York State Department of Environmental Conservation (“NYSDEC”) and other governmental agencies and by private sources, including an assessment of the various potential environmental impacts from hydrofracking, analysis of the state laws, rules and regulations currently in place and the potential for additional regulations at the state or federal levels relating to hydrofracking. The Town Board has considered imposing a moratorium period to allow the Town Board time to review any further findings and any additional state or federal laws, rules or regulations, which would necessarily impact the role of the Town in the regulation of hydrofracking activity at the local level.

F. A moratorium would also allow necessary time for the Town Board to further examine potentially significant issues related to hydrofracking and examine whether local regulations relating to hydrofracking are necessary, and if so, the extent of such regulations. If the Town Board deems such local 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.

G. The Town of Spafford does hereby find 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 hydrofracking and to consider recommendations relating to hydrofracking. A moratorium of six (6) months will prevent the establishment or continuation of hydrofracking processes 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 adoption of this moratorium pending the issuance of final regulations by the Town of Spafford or by other governmental agencies.

Section 3. Enactment of Local Law
The Town Board declares a six-month moratorium on any activity or processes involving or associated with hydraulic fracturing or hydrofracking, including the continued use of hydraulic fracturing or hydrofracking within the Town of Spafford and the establishment, implementation, placement, or construction of new hydraulic fracturing or hydrofracking facilities or apparatus in the Town of Spafford after the effective date, and during the duration of this Local Law, and any extension hereof.
Section 4. Definitions
HYDRAULIC FR. ACTURING OR HYDROFRACKING - For purposes of this Local Law, the term "hydraulic fracturing" or "hydrofracking" shall mean the process of recovering and/or developing natural gas trapped behind or within shale or rock and which generally is accomplished by a gas well that is drilled vertically into the ground and then horizontally from the well head, after which water, sand, and/or chemicals are injected into the well for the breaking and/or fracturing of shale and/or other natural structures under the ground intending to release natural gas from the ground.

PERSON - For the purposes of this Local Law, the term "person" shall include an individual, or the association of individuals, partnership, joint venture, corporation, limited liability company, or any other entity, and the singular shall include the plural number.

Section 5. Scope and Control
A. For the period of six (6) months following the effective date of this Local Law, no new hydraulic fracturing or hydrofracking facilities or operations, as defined by this Local Law, or expansions beyond existing operations or facilities, shall be permitted by any person within the Town of Spafford.

B. During the effective period of this Local Law, the Code 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 hydraulic fracturing or hydrofracking facility or operation, including any activity associated therewith or in furtherance thereof, or the enlargement of any existing hydraulic fracturing or hydrofracking facility or operation within the Town.

C. If within six (6) months, the Town Board adopts a local law, rules or regulations relating to hydrofracking, then, in that event the moratorium imposed by this Local Law shall expire immediately on the date any such Town of Spafford local law, rules or regulations relating to hydraulic fracturing or hydrofracking takes effect in accordance with Section 27 of the Municipal Home Rule Law.

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

Section 6. Exceptions
The lawful use of any premises or apparatus on or after the effective date of this Local Law under a permit issued by the Town of Spafford or other appropriate state or federal agency may be continued, provided that such use conforms to applicable permits and state or federal laws, rules and regulations and shall not be enlarged or extended beyond the existing location and operation.

Section 7. Enforcement
This Local Law shall be enforced by the Code Enforcement Officer of the Town of Spafford, or such other individual(s) as may be designated by the Town Board, and it shall be the duty of the enforcement individual(s) 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 file the same in the Office of the Town Clerk.

Section 8. Violations
Any person violating any of the provisions of this Local Law shall be guilty of an offense, and upon a conviction thereof, shall he subject to a civil penalty of not less than $500.00 nor more than $1,000.00 per day for each such violation. Each day's violation for any separate and individual violation shall constitute
a separate and additional violation. An action may be commenced in a court of competent jurisdiction to recover such penalty. In addition thereto, violations of this Local Law shall be subject to being restrained by injunctive relief.

Section 9. 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. While 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.

Section 10. 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 in the State of New York 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 clauses sentence, paragraph, section, articles 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 11. Effective Date
This Local Law shall become effective immediately upon filing with the Secretary of State.

; and be it further

RESOLVED AND ORDERED, that said Local Law shall be in full force and effect as provided by law upon the filing of this Local Law with the Secretary of State.

I, LISA VALLETTA, Town Clerk of the Town of Spafford, DO HEREBY CERTIFY that the preceding Resolution was duly adopted by the Town Board of the Town of Spafford at a regular meeting of the Board duly called and held on the 8th day of September, 2011; that said Resolution was entered in the minutes of said meeting; that I have compared the foregoing copy with the original thereof now on file in my office; and that the same is a true and correct transcript of said Resolution and of the whole thereof.

I HEREBY CERTIFY that all members of said Board had due notice of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Spafford, this day of September, 2011.

DATED: ______________________, 2011

Skaneateles, New York

LISA VALLETTA
Town Clerk of the Town of Spafford
Onondaga County, New York

BORODINO GRANGE BUILDING
The Spafford Area Historical Society (SAHS) submitted a request for monetary assistance to install donated siding on the Borodino Grange Building.

RESOLUTION 51-2011
Borodino Grange Building Siding
On a motion by Councilor Lieberman, seconded by Councilor Ireland the following resolution was-passed:

PASSED

AYES – 4
Stevens, Lieberman, Clark, Ireland

NAYS – 0

7 of 8
Town of Spafford Local Law No. ____ of the year 2012
Reestablishing a Moratorium

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

Be it enacted by the Town Board of the Town of Spafford, as follows:

Section 1. TITLE

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

Section 2. AUTHORITY AND INTENT; FINDINGS; PURPOSE

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

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

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

Section 3. DEFINITIONS

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

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

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

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

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

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

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

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

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

Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes --- Any of the following in any form, and whether or not such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of “industrial waste,” ”hazardous,” or “toxic,” and whether or not such substances are generally characterized as waste: (a) below-regulatory concern radioactive material, or any radioactive material which is not below-regulatory concern, but which is in fact not being regulated by the regulatory agency otherwise having jurisdiction over such material in the 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, or transportation of, natural gas, petroleum, or any related hydrocarbons; (b) natural gas or petroleum drilling fluids; (c) natural gas or petroleum exploration, drilling, production or processing wastes; (d) natural gas or petroleum drilling treatment wastes (such as oils, frac fluids, produced water, brine, flowback, sediment and/or any other liquid or semi-liquid material); (e) any chemical, waste oil, waste emulsified oil, mud, or
Proposed

sediment that was used or produced in the drilling, development, transportation, processing or refining of natural gas or petroleum; (f) soil contaminated in the drilling, transportation, processing or refining of natural gas or petroleum; (g) drill cuttings from natural gas or petroleum wells; or (h) any other wastes associated with the exploration, drilling, production or treatment of natural gas or petroleum. This definition specifically intends to include some wastes that may otherwise be classified as “solid wastes which are not hazardous wastes” under 40 C.F.R. § 261.4(b). The definition of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes does not include (i) recognizable and non-recognizable food wastes, or (ii) waste generated by Agriculture Use.

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

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

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

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

Natural Gas Processing Facility --- Those facilities that separate and recover natural gas liquids (NGLs) and/or other non-methane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or stripping gas, cooking and dehydration, residual refinement, treating or removing oil or condensate, removing water, separating NGLs, removing sulfur or carbon dioxide, fractionation of NGLs, or the capture of CO₂ separated from natural gas streams.

Non-Regulated Pipelines --- 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.

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

Pipeline --- All parts of those physical facilities through which petroleum, gas, hazardous liquids, or chemicals move 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 boxes, 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.

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

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

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

Town --- The Town of Spafford, Onondaga County, New York.

Town Board --- The Town Board of the Town.

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: (a) the Federal Energy Regulatory Commission’s jurisdiction under section 1(b) of the Natural Gas Act, or (b) as a “Major utility transmission facility” under the Public Service Law of New York, Article 7, §120(2)(b).

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

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

Section 4. MORATORIUM AND PROHIBITION.

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

C. The moratorium and prohibition set forth above in Sections A. and B. of this Section 4. are not intended, and shall not be construed, to:

   (y) prevent or prohibit the transmission of natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supplying natural gas to residents of or buildings located in the Town; or (z) prevent or prohibit the incidental or normal sale, storage, or use of lubricating oil, heating oil, gasoline, diesel fuel, kerosene, or propane in connection with legal Agriculture, residential, business, commercial, and other uses within the Town, so long as such uses do not involve any Natural Gas And/Or Petroleum Exploration Activities, Natural Gas And/Or Petroleum Extraction Activities, or Natural Gas And/Or Petroleum Support Activities.

D. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is one year 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 and prohibition no longer exists.

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

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

Section 5. PENALTIES.

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

B. Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.

C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all necessary costs incurred by the Town relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court.
Section 6. ‘GRANDFATHERING’ OF LEGAL, PRE-EXISTING NON-CONFORMING USE

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

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

2. Natural Gas And/Or Petroleum Extraction Activities that are being conducted in the Town as of the effective date of this Local Law and which do not qualify for treatment under the preceding Clause A. 1. of this Section 6 shall not be grandfathered, and shall in all respects be prohibited as contemplated by Section 4 hereof.

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

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

Section 7. INVALIDITY OF ANY CONFLICTING APPROVALS OR PERMITS.

No permit or approval issued by any local or state agency, department, commission or board shall be deemed valid within the Town of Spafford when or to the extent that such permit or approval purports to allow or permit any activity that would violate the prohibitions set forth at Section 4 of this Local Law.

Section 8. HARDSHIP USE VARIANCE.

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

Local Law by persons aggrieved hereby.

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

A. Unnecessary Hardship. In order to prove such unnecessary hardship the applicant is required to demonstrate to the Board of Appeals that, with respect to every permitted use under the zoning regulations for the particular district where the property is located, each of the following four criteria is satisfied: (i) the applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (iii) the requested use variance, if granted, will not alter the essential character of the neighborhood; and (iv) the alleged hardship has not been self-created.

B. Reasonable Rate of Return. In evaluating whether the applicant can realize a reasonable rate of return, the Board of Appeals must examine whether the entire original or expanded property holdings of the applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed development project). No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the applicant has clearly demonstrated, by detailed “dollar and cents” proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) and for each and every permitted use in the district (including those uses permitted by special use permit).

C. Unique Hardship. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.

D. Essential Character of the Neighborhood. In making its determination of whether the proposed development project will alter the essential character of the neighborhood, the Board of Appeals shall take into account factors that are of vital importance to the citizens of the Town including without limitation: (i) the rural residential, agricultural and historic character of the Town, (ii) its irreplaceable recreation and tourism sites, (iii) the extent of hazard to life, limb or property may result from the proposed development project, (iv) health impacts, (v) the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances, (vi) the impact on property values, and (viii) whether the applicant will use a style of development that will result in degradation to the air quality, water quality and environment of the Town. In order to find that the proposed development project does not alter the essential character of the neighborhood, the Board of Appeals shall interpret the public interest in said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following: (x) pose a threat to the public safety, including public health, water quality or air quality, (y) cause an extraordinary public expense, or (z) create a nuisance.

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

In the event the Board of Appeals grants a hardship use variance from the provisions
of this Local Law to the applicant, the applicant shall be required to comply with all provisions
of the Town’s then applicable zoning laws and other laws and regulations, together with any
amendments to such law or regulations which may be enacted during the term of this Local
Law. Any hardship use variance that is granted shall grant only the minimum variance that the
Board of Appeals deems necessary and adequate to address the unnecessary hardship proven
by the applicant, and at the same time preserve and protect the character of the neighborhood
and the health, safety and welfare of the community.

Section 9. SEVERABILITY.

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

Section 10. SUPERSEDED INTENT AND 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-a; § 267; § 267-a, § 267-b, § 268; §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 provisions of the Zoning Ordinance of the Town of
Spafford; and (d) any inconsistent provisions of any and all other local ordinances, local laws or
local resolutions of the Town of Spafford.

Section 11. EFFECTIVE DATE.
This Local Law shall take effect immediately upon filing with the New York Department of
State.