Yates County Planning Board Referral Form

Municipality and Referring Agency: Town of Starkey

Project Address: Town of Starkey

Project Tax Map #: 

Zoning District: 

Applicant (Name & MAILING): Town of Starkey

40 Seneca Street, Dundee

Email: starkeytownclerk@yahoo.com

Property Owner (Name & MAILING): 

Email: 

Reason for Referral (Prox. to Cty Rd., State Rd., Muni Boundary, etc.): 

Application Type

Area Variance [ ]
Use Variance [ ]
Special Use Permit [ ]
Site Plan [ ]
Subdivision [ ]
Text Amendment [ ]
Map Amendment [ ]
Other [ ]

Project Description

Third moratorium to allow the Town of Starkey to research and implement responsible zoning on natural gas development in the town.

Supporting Documents Required (IF N/A, include explanation)

Copy of moratorium

Certification: With the following signature I certify that this application provides a complete description of the proposed local action and is a complete application pursuant to NYS General Municipal Law Article 12b, Section 239-m, part c.

Referring Official

James R. Ritter, Supervisor

Provision of required information is the responsibility of the referring agency. Failure to provide such information may result in a significant delay in processing.
A local law  "Establishing a Third 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

The Town Board of the Town of Starkey adopted on March 8, 2012 Local Law No. 1 of the year 2012, entitled, “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”. Local Law 1 of 2012 took effect on April 19, 2012 upon its filing with the New York State Department of State.

Local Law 1 of 2012 established a one-year moratorium on the acceptance, processing, approval, conditional approval or issuance of any application for a permit, zoning permit, special permit, zoning variance, building permit, site plan approval, subdivision approval or other Town-level approval for the construction, establishment, or use or operation of any land, body of water, building or other structure located within the Town of Starkey 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, such terms being defined in Local Law 1 of 2012.
Local Law 1 of 2012 also prohibited, during its effective term, any Person, as defined in Local Law 1 of 2012, from using, causing or permitting to be used any land, body of water, building or other structure located within the Town of Starkey 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, such terms being defined in Local Law 1 of 2012.

The Town of Starkey needed the time afforded by Local Law 1 of 2012 to study the impacts, effects and possible controls over the following activities: (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, such terms being defined in Local Law 1 of 2012. The Town of Starkey also needed the time afforded by Local Law 1 of 2012 to consider amendments to the Town’s Zoning Laws to address the same.

The Town Board of the Town of Starkey established a second one-year moratorium entitled, “A local law Establishing a Second 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”, effective April 25, 2013 with the filing of Local Law No. 1 of 2013 with the New York State Department of State.

**After consideration of the scope of the review and possible revisions to the Town’s Zoning Laws, the Town Board deems it necessary to adopt a third one (1)-year moratorium and prohibition on these specified activities to complete its studies and to complete its consideration and enactment of amendments to the Town’s Zoning Laws.**

Section 2. INCORPORATION OF PARTS OF LOCAL LAW 1 OF 2012

All provisions contained in Local Law 1 of 2012 of the Town of Starkey in Section 2 (Authority and Intent; Findings; Purpose), Section 3 (Definitions), Section 5 (Penalties), Section 6 (“Grandfathering” of Legal, Pre-Existing Non-Conforming Use), Section 7 (Invalidity of Any Conflicting Approvals or Permits), Section 8 (Hardship Use Variance) and in Appendix A, attached to and forming a part thereof, are incorporated into this Local Law by reference and shall have full force and effect relative to this Local Law during the effective term of this Local Law.

Section 3. MORATORIUM.

A. From and after the date of this Local Law, no application for a permit, zoning 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 of Starkey 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 of Starkey 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. This third moratorium and prohibition set forth above in Paragraphs A. and B. of this Section 3 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 of Starkey, 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 third moratorium and prohibition shall be in effect for a period of one (1) year from the effective date of this Local Law and shall expire on the earlier of (i) the date one (1) year from said effective date, unless renewed; or (ii) the enactment by the Town Board of a resolution indicating the Town Board is satisfied that the need for the moratorium 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, the Board of Appeals, the Planning Board or the Town Code Enforcement Officer to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, site plan approval, subdivision approval or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

Section 4. 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 directly involved in the controversy in which such judgment shall have been ordered.

Section 5. SUPERSEDING EFFECT.

Pursuant to New York Municipal Home Rule Law, Section 22, the provisions of this law are to supersede any inconsistent provisions set forth in New York State Town Law §§ 265-a, 267, 267-a, 267-b, 268, 274-a, 274-b, 276, 277, 278 and 279, any other inconsistent provisions set forth in Article 16 of New York State Town Law, any inconsistent provisions of the Zoning Ordinance of the Town of Starkey and any inconsistent provisions of any and all other local ordinances, local laws or local resolutions of the Town of Starkey.
Section 6. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the New York Department of State and shall remain in force and effect for a period of one (1) year from the date of such filing.
Town of Starkey Planning Board Comprehensive Plan Workshops in 2013 & 2014

January 8 & 22, 2013
February 5,
March 5 & 19
April 2 & 16
May 2
June 4
July 2
August 6
September 3
October 1 & 15
November 5 & 19
December 3 & 17
January 7 & 18, 2014
February 4 & 18
March 4
G.M.L. §239 REFERRAL TO THE YATES COUNTY PLANNING BOARD

YCPD Referral # 2013-14  Date Received March 12, 2013

Referring Municipality: Town Of Starkey
Referring Agency (check one): [✓] Municipal Board [ ] Planning Board [ ] Zoning Board of Appeals
Applicant (Name & Address): Town of Starkey

Email: stackeatownclerk@yahoo.com

Property Owner (If different than Applicant)

Email

Tax Map #: 

Type of Application:
[ ] Use Variance [ ] Area Variance [ ] Special Use Permit
[ ] Subdivision Review [ ] Site Plan Review [ ] Zoning Text Amendment
[ ] Zoning Map Amendment (Rezoning) [✓] Other Moratorium

Project Description: Moratorium to allow Town of Starkey to research and implement responsible zoning on natural gas development in the town

Detailed Description of Current Zoning & Explanation of Desired Relief:

Supporting Documentation Included with This Referral (please check all that apply):
[ ] Municipal Application [ ] SEQR Documentation [ ] Project Narrative
[ ] Site Plan [ ] Location Map [ ] Subdivision Plan
[✓] Other copy of proposed moratorium

Certifications With the following signature I certify that this application provides a complete description of the proposed local action and is a complete application pursuant to NYS General Municipal Law Article 12b, section 239-b, part c. Provision of required information is the responsibility of the applicant and referring agency. Failure to provide such information may result in a significant delay in processing.

Signature: James R Ritter Supervisor

Ashley
1 page
315-531-3209
FILING LOCAL LAW

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

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City
Town of Starkey
Village

Local Law No. 1 of the year 2013.

A local law "Establishing a Second 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

County
City
Town of Starkey
Village

as follows:

Section 1. PURPOSE:

The Town Board of the Town of Starkey adopted on March 8, 2012 Local Law No. 1 of the year 2012, entitled, "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". Local Law 1 of 2012 took effect on April 19, 2012 upon its filing with the New York State Department of State.

Local Law 1 of 2012 established a one-year moratorium on the acceptance, processing, approval, conditional approval or issuance of any application for a permit, zoning permit, special permit, zoning variance, building permit, site plan approval, subdivision approval or other Town-level approval for the construction, establishment, or use or operation of any land, body of water, building or other structure located within the Town of Starkey 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, such terms being defined in Local Law 1 of 2012.
Local Law 1 of 2012 also prohibited, during its effective term, any Person, as defined in Local Law 1 of 2012, from using, causing or permitting to be used any land, body of water, building or other structure located within the Town of Starkey 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, such terms being defined in Local Law 1 of 2012.

The Town of Starkey needed the time afforded by Local Law 1 of 2012 to study the impacts, effects and possible controls over the following activities: (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, such terms being defined in Local Law 1 of 2012. The Town of Starkey also needed the time afforded by Local Law 1 of 2012 to consider amendments to the Town's Zoning Laws to address the same.

After consideration of the scope of the review and possible revisions to the Town's Zoning Laws, the Town Board deems it necessary to adopt a second one (1)-year moratorium and prohibition on these specified activities to complete its studies and to complete its consideration and enactment of amendments to the Town's Zoning Laws.

Section 2. INCORPORATION OF PARTS OF LOCAL LAW 1 OF 2012

All provisions contained in Local Law 1 of 2012 of the Town of Starkey in Section 2 (Authority and Intent; Findings; Purpose), Section 3 (Definitions), Section 5 (Penalties), Section 6 (“Grandfathering” of Legal, Pre-Existing Non-Conforming Use), Section 7 (Invalidity of Any Conflicting Approvals or Permits), Section 8 (Hardship Use Variance) and in Appendix A, attached to and forming a part thereof, are incorporated into this Local Law by reference and shall have full force and effect relative to this Local Law during the effective term of this Local Law.

Section 3. MORATORIUM.

A. From and after the date of this Local Law, no application for a permit, zoning 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 of Starkey 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 of Starkey 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. This second moratorium and prohibition set forth above in Paragraphs A. and B. of this Section 3 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 of Starkey, 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 second moratorium and prohibition shall be in effect for a period of one (1) year from the effective date of this Local Law and shall expire on the earlier of (i) the date one (1) year from said effective date, unless renewed; or (ii) the enactment by the Town Board of a resolution indicating the Town Board is satisfied that the need for the moratorium 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, the Board of Appeals, the Planning Board or the Town Code Enforcement Officer to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, site plan approval, subdivision approval or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

Section 4. 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 directly involved in the controversy in which such judgment shall have been ordered.

Section 5. SUPERSEDED EFFECT.

Pursuant to New York Municipal Home Rule Law, Section 22, the provisions of this law are to supersede any inconsistent provisions set forth in New York State Town Law §§ 265-a, 267, 267-a, 267-b, 268, 274-a, 274-b, 276, 277, 278 and 279, any other inconsistent provisions set forth in Article 16 of New York State Town Law, any inconsistent provisions of the Zoning Ordinance of the Town of Starkey and any inconsistent provisions of any and all other local ordinances, local laws or local resolutions of the Town of Starkey.

Section 6. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the New York Department of State and shall remain in force and effect for a period of one (1) year from the date of such filing.
(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.),

I hereby certify that the local law annexed hereto, designated as local law No. ___ of 2013 of the Town of Starkey was duly passed by the Starkey Town Board on ______________, 2013, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\(^1\).)

I hereby certify that the local law annexed hereto, designated as local law No. ___ of 20__ of the (County)(City)(Town)(Village) of ______________ was duly passed by the __________________ on ______________, ____, and was (approved)(not approved)(repassed after disapproval) by the __________________ and was deemed duly adopted on ______________, 20__ in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. ___ of 20__ of the (County)(City)(Town)(Village) of ______________ was duly passed by the __________________ on ______________, ____, and was (approved)(not approved)(repassed after disapproval) by the __________________ and was deemed duly adopted on ______________, 20__ in accordance with the applicable provisions of law. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on ______________, 20__, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. ___ of 20__ of the (County)(City)(Town)(Village) of ______________ was duly passed by the __________________ on ______________, ____, and was (approved)(not approved)(repassed after disapproval) by the __________________ on ______________, 20__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of ______________, 20__, in accordance with the applicable provisions of law.

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\(^1\) Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or Village, or the supervisor of a Town where such officer is vested with the power to approve or veto local laws or ordinances.
5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. ________________ of 2009 of the City of __________________ of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____________, 20__, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. ________________ of 20__ of the County of __________________, State of New York, having been submitted to the electors at the General Election of November ____, 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the Towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

__________________________________________________________________________

Clerk of the Town

(Seal) Date: __________________________

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ONTARIO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

__________________________________________________________________________

Attorney to the Town
Town of Starkey

Date: __________________________
March 14, 2013

Short summary of work by the Town of Starkey to support the 2nd Moratorium.

1. April 19, 2012 Local Law filed with NYS
2. Monthly meetings of the Planning Board
3. Comprehensive Plan review
4. Appointment of a subcommittee to research materiel to support moratorium
5. Monthly workshops of the sub committee
6. Monthly presentation by the Planning Board to the Town Board
7. Research questions for Comprehensive Plan survey
8. January 23, 2013 - Debate on Hydrofracking sponsored by the Town of Starkey
9. January 24, 2013 - Survey mailed to residents and tax payers – 2200
10. February 15, 2013 - last day to receive surveys in the clerks office
11. Weekly workshops of the Planning Board to tally survey results
12. March 7, 2013 present survey results to the Town Board

Sue Crans
Town of Starkey Clerk

“Extensive research on Horizontal Hydrofracking was done over several months, by a sub-committee appointed by the Starkey Planning Board and approved by the Starkey Town Board. The research primarily focused on 5 areas: 1) The effect of Fracking on the economics of the area, 2) Potential impacts to the Environment, 3) Health Concerns, 4) Cultural Impacts of Fracking, and 5) Legal Issues. Extensive documentation of the research done by the committee was sent by email to each board member and planning board member with complete summaries and links to the original research. A binder was also assembled with hard copies of all the material collected, which remains at the Town Hall and is available to the boards and to the community.”
G.M.L. §239 REFERRAL TO THE YATES COUNTY PLANNING BOARD

YCPD Referral # 2012-6

Date Received February 14, 2012

Referring Municipality: Town of Starkey

Referring Agency (check one): ☑ Municipal Board ☐ Planning Board ☐ Zoning Board of Appeals

Applicant (Name & Address): Town of Starkey

Email

Property Owner (IF different than Applicant)

Email

Tax Map #: __________________

Type of Application:

☐ Use Variance ☐ Area Variance ☐ Special Use Permit

☐ Subdivision Review ☐ Site Plan Review ☐ Zoning Text Amendment

☐ Zoning Map Amendment (Rezoning) ☑ Other Moratorium

Project Description: Moratorium to allow Town of Starkey to research and implement responsible zoning on natural gas development in the town

Detailed Description of Current Zoning & Explanation of Desired Relief:

Supporting Documentation Included with This Referral (please check all that apply):

☐ Municipal Application ☐ SEQR Documentation ☐ Project Narrative

☐ Site Plan ☐ Location Map ☐ Subdivision Plan

☑ Other copy of proposed moratorium

Certification: With the following signature I certify that this application provides a complete description of the proposed local action and is a complete application pursuant to NYS General Municipal Law Article 12b, section 239-m, part c. Provision of required information is the responsibility of the applicant and referring agency. Failure to provide such information may result in a significant delay in processing.

Signature: James R Ritter, Supervisor
Local Law No. ___ of the year 2012:

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

County
City
Town of Starkey, as follows:
Village

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 Starkey 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 C.F.R. § 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 fewer 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," "radioactive," and whether or not such substances are generally characterized as waste: (a) below or regulatory concern radioactive material, or any radioactive material which is not below a 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, mud, and 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 waste 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 designation 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 uses.

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.

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 Starkey, Yates 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, 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 pipelines, or similar appurtenances for the limited purpose of supplying natural gas to residents 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, 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. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the property(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

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

Notwithstanding any provision hereof 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:

A.1. Those 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 and shall not be construed, to authorize or grandfather any Natural Gas And/Or Petroleum Extraction Activities extending whatever well bore is authorized in any DEC permit 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 Starkey when 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 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 recreational 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 shall 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 for 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 even 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. SUPERSEDING 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), §10(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 Starkey; and (d) any inconsistent provisions of any and all other local ordinances, local laws or local resolutions of the Town of Starkey.

Section 11. EFFECTIVE DATE.

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

I hereby certify that the local law annexed hereto, designated as Local Law No. __________ of 2012 of the Town of Starkey, was duly passed by the Town Board on __________ in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Sue Crans, Town Clerk
Date: __________

(Seal)

STATE OF NEW YORK
COUNTY OF YATES
I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

_________________________, Esq.

Town Attorney for the Town of Starkey

Date: ________________
APPENDIX A
ATTACHED TO AND FORMING A PART OF
TOWN OF STARKEY (NY) LOCAL LAW NO. ___ of the YEAR 2012,
known as:

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

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

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

Section 1. Authority and Intent. This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Starkey 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)(i)(e),(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 and land use 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 physical externalities associated with certain land uses, such as negative impacts on roadways and traffic congestion and other deleterious impacts on a community.

Section 2. Findings of Fact.

1. Starkey is a community in the southeastern part of Yates County that takes great pride
in and assigns great value to its rural residential character, small-town atmosphere, and scenic and other natural resources. [here consider adding material from Comp Plan re: special assets and features.]

2. Many residents are dependent upon aquifers and wells for life-sustaining water; maintaining the quality of water resources within the Town is critical to protecting the natural environment of the Town, the general health and welfare of Town residents, and the local economy.

3. Preservation of the Town’s irreplaceable scenic 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.

4. The Town’s rich natural environment is a valuable asset that creates a sense of identity and well-being for residents of the area. Preserving and protecting the scenic, recreational, and other natural resources of the Town is important for both a healthy environment and vibrant economy. Aesthetic assets are real and evoke strong reactions from people. They deeply affect the way people feel about a place – whether or not businesses will want to locate, or people will want to live in and visit a place.

5. Allowing the activities prohibited by Section 4. of the Local Law would impair the existing character of the Town, because by their very nature such activities have the potential to produce a combination of negative impacts upon the environment and people living in or in proximity to the communities in which they are located. Such negative impacts may include, without limitation, traffic, noise, vibrations, fumes, damage to roadways, degradation of water quality, degradation of air quality, decreased availability of affordable housing, damage to and loss of agricultural lands and soils, damage to and loss of open space, natural areas, and scenic views, decreased recreational opportunities, and damage to the tourism industries.

6. If one or more of the activities prohibited by Section 4. of the Local 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. The Town is not in a position to bear the high costs associated with the road use impacts that accompany many of the activities prohibited by Section 4. of the Local Law. Accidents involving heavy trucks have greater potential for death than those involving smaller vehicles. Increased truck traffic increases air pollution and noise levels, and decreases the quality of life and property values for those living nearby.

7. If one or more of the activities prohibited by Section 4. of the Local Law are conducted within the Town, the air pollution, dust and odors generated thereby (whether onsite or by truck traffic to and from the proposed site of such activities) could be hazardous or inconvenient to the inhabitants of the Town. Air pollution is a known hazard to the
8. Allowing one or more of the activities prohibited by Section 4 of the Local 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 activities prohibited by Section 4 of the Local Law are conducted within the Town, noise, vibrations, and light pollution typically caused by such activities 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 Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined at Section 3 of the Local Law) 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 Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined at Section 3 of the Local Law) have in other localities resulted, and could in our 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.

12. The explicit proscription of the activities prohibited by Section 4 of the Local Law is a legitimate goal of land use laws. There is no question that exclusion of specified industrial uses is a legitimate goal of such laws:

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

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

416 U.S. at 6.

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

We have never held, however, that the ... ['exclusionary zoning'] test, which is intended to prevent a municipality from improperly using the zoning power to keep people out, also applies to prevent the exclusion of industrial uses. A municipality is not obliged to permit the exploitation of any and all natural resources within the town as a permitted use if limiting that use is a reasonable exercise of its police power to prevent damage to the rights of others and to promote the interests of the community as a whole. 87 N.Y. 2d at 683, 684. (emphasis added.)

Section 3. Purposes. The purpose of the Local Law is to enable the Town of Starkey to stay the construction, operation, and establishment of, and the submission and processing of applications for permits, zoning permits, special permits, zoning variances, building permits, operating permits, site plan approvals, subdivision approvals, certificates of occupancy, certificates of compliance, temporary certificates, and other Town-level approvals respecting, the activities prohibited by Section 4 of the Local Law, for a reasonable time, so as to allow the Town time to study the impacts, effects, and possible controls over such activities and to consider amendments to the Town's zoning laws to address the same. The Town Board finds that a moratorium of one (1) year 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 Starkey and the health, safety and general welfare of its residents, and the rights of individual property owners or businesses desiring to conduct such activities (on the other) during such period.