I, MARJORIE QUACKENBUSH, Town Clerk of the Town of Warwick, in the County of Orange, State of New York HEREBY CERTIFY that the following resolution #R2013-98 entitled ADOPT LOCAL LAW #3 OF 2013 – AMENDING CHAPTER 164 OF THE CODE OF THE TOWN OF WARWICK, ZONING, ENTITLED “A LOCAL LAW TO PROHIBIT HEAVY INDUSTRY” was adopted at the regular meeting of the Town Board of the Town of Warwick duly called and held on Tuesday, FEBRUARY 26, 2013 have been compared by me with the original minutes as officially recorded in the Town Clerk’s Office in the Minute Book of the Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matter.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Town of Warwick this 28th day of February, 2013.

SEAL

[Seal]

Marjorie Quackenbush, Town Clerk

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS, the Town’s current Comprehensive Plan was adopted in 2008 and such Plan’s overall goal is “Protection of Warwick’s rural quality and its natural environment”; and

WHEREAS, the Comprehensive Plan clearly omits any discussion of the need for heavy industry as an acceptable land use in the Town, focusing instead on encouraging the agricultural industry, the tourism industry and light industry in planned office and industrial parks; and

WHEREAS, the State of New York is expected to complete in 2013 new regulations that would allow for the exploration and extraction of natural gas using high volume hydraulic fracturing in combination with horizontal drilling (HVHF) into deep shale formations that lie beneath the Town of Warwick; and

WHEREAS, exploitation of the natural gas resource using present-day HVHF technologies elsewhere in the Nation have resulted in heavy industrial activities with the potential for impacts on the environment and health, which have been documented in the State’s Revised draft Supplemental Environmental Impact Statement on the natural gas [oil and solution mining] industry ; and

WHEREAS, the Town Board determined that its current Zoning Law needed to be amended so as to be in accordance with the provisions of the Comprehensive Plan by identifying heavy industry as a land use that should be clearly prohibited in the Town; and

WHEREAS, the Town Board declared itself Lead Agency on February 26, 2013 with regard to the SEQR review of the Proposed Action and designated the action as Type 1 under SEQR; and

WHEREAS, the Town Board determined it was the only agency to adopt a Zoning Local Law and there were no other involved agencies for purposes of SEQR review of the Proposed Action; and

WHEREAS, the Town Board issued a Negative Declaration following review of a Full Environmental Assessment Form, prepared by the Town Planner, on February 26, 2013 in accordance with 6 NYCRR §617.7 of the SEQR regulations; and

WHEREAS, the Town Board held a public hearing on the Proposed Action on February 11, 2013 and accepted written comments on the Proposed Action until February 21, 2013; and

WHEREAS, the Town Board duly referred the Proposed Action to the Orange County Department of Planning in accordance with the requirements of General Municipal Law §239-l and 239-m; and

WHEREAS, the Town Board also duly referred the Proposed Action to the Town of Warwick Planning Board for its review and comment in accordance with the requirements of the Town’s Zoning Law; and
WHEREAS, the Town Board has received and reviewed the comments of the Orange County Department of Planning, the comments of the Town of Warwick Planning Board, and has duly evaluated and considered those comments; and
WHEREAS, the Town Board will forward a Notice of adoption of a Negative Declaration for a Type 1 Action to the Environmental Notice Bulletin for publication in accordance with the requirements of NYCRR §617.12(c)(1); and
WHEREAS, the adoption of the Proposed Action is made pursuant to the authority of Municipal Home Rule §10(1)(ii)(d)(3).
NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Warwick, hereby adopts Local Law #3 of 2013 entitled "A Local Law to Prohibit Heavy Industry"; and it is
FURTHER RESOLVED, that the Town Clerk shall file a copy of the Zoning Local Law Amendments with the Orange County Department of Planning; and it is
FURTHER RESOLVED, that the Town Clerk shall file copies of Local Law #3 of 2013 with the Department of State, as required by Law.
Roll Call Vote:
Supervisor Michael Sweeton Aye
Councilman Floyd DeAngelo Aye
Councilman Russ Kowal Aye
Councilman James Gerstner Aye
Councilman Mickey Shuback Abstain
Motion Carried (4 ayes, 0 nays & 1 abstention Councilman Shuback abstaining)
Supervisor declared this resolution duly adopted.
TOWN OF WARWICK
LOCAL LAW NO. 2 OF 2013
A LOCAL LAW TO PROHIBIT HEAVY INDUSTRY

BE IT ENACTED by the Town Board of the Town of Warwick as follows:

§ 1. Legislative intent.

This local law amends Chapter 164 of the Town Code to expressly define heavy industry and to include natural gas and/or oil exploration, extraction and support activities as heavy industry. Heavy industry is not permitted in the Town because it is inconsistent with the Town’s Comprehensive Plan and has the potential to increase traffic, noise and odors, disrupt the aesthetic quality of the Town’s landscapes and open spaces, diminish the Town’s land values, potentially contaminate the Town’s water and air resources, and disrupt the Town’s biodiversity.

§ 2. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

§ 3. Section 164-22 of the Code is hereby amended by adding the following new definitions:

EXTRACTIVE OPERATIONS – The use of land for the purpose of extracting and selling stone, sand, gravel, topsoil or other minerals, but excluding fissionable materials, natural gas, oil and/or other subsurface hydrocarbons.

INDUSTRY, HEAVY – A use characteristically employing some of, but not limited to the following: smokestacks, scrubbing towers, waste-treatment or storage lagoons,
reserve pits, derricks or rigs, whether temporary or permanent. Heavy industry has the potential for large-scale environmental pollution when equipment malfunctions or human error occurs. Examples of heavy industry include, but are not limited to: steel manufacturing, drilling of oil and gas wells, oil refineries, natural gas processing plants and compressor stations, petroleum, coal and other hydrocarbon processing. Without limiting the foregoing, natural gas and oil exploration, natural gas and oil extraction and natural gas and oil support activities constitute heavy industry. Generic examples of uses not included in the definition of "heavy industry" are such uses as: milk processing plants, dairy farms, light manufacturing facilities, woodworking and cabinet shops, auto repair shops, wineries and breweries, warehouses, equipment repair and maintenance structures, office and communications buildings, parking lots, and parking garages and water wells serving otherwise allowed uses of the property. Agriculture and extractive operations involving sandpits, gravel banks, removal of topsoil and fill, quarries, and mines shall not be considered heavy industry.

INDUSTRY, LIGHT – A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding Heavy Industry as defined herein and excluding any Prohibited Use, as defined in § 164-40.I.

NATURAL GAS AND/OR OIL EXPLORATION – The use of land for geological or geophysical activities related to the search for natural gas, oil or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, oil or other subsurface hydrocarbon deposits.

NATURAL GAS AND/OR OIL EXTRACTION – the use of land for digging or drilling a well for the purposes of exploring for, developing, or producing natural gas, oil or other subsurface hydrocarbons. Natural gas and oil extraction includes a storage or construction staging yard associated with an oil or gas extraction operation, and gas pipelines, water lines and other gathering systems and components including but not limited to drip stations, vent stations, chemical injection stations and valve boxes associated with an oil or gas extraction operation.

NATURAL GAS AND/OR OIL SUPPORT ACTIVITIES – the construction, use or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a natural gas or oil storage facility, or a natural gas or oil gathering line, venting station, or compressor associated with the exploration or extraction of natural gas or oil.

NATURAL GAS AND/OR OIL PRODUCTION BYPRODUCTS – any refuse, sludge, or other waste materials, whether or not recycled or reused or intended to be recycled or reused, including solid, liquid, semi-solid, or contained gaseous material that results from, is associated with, or produced as a byproduct of the exploration, drilling or extraction of natural gas, oil, and/or other subsurface hydrocarbons, including without
limitation production brine, produced waters, flowback, flowback fluids or hydraulic fracturing fluids.

§ 4. Section 164-22 of the Code is hereby amended by replacing the existing text in its entirety with the following new text:

MANUFACTURING – Any process whereby the nature, size or shape of articles or raw materials are changed, or where articles are assembled or packaged in quantity, but excluding any use explicitly prohibited by §164-40I.

STORAGE, BULK – The accumulation of wholesale quantities of raw or finished materials (solids, liquids and gases) preparatory to use in a manufacturing process or to retail sales, a permanent reserve being maintained. Bulk storage excludes underground and/or above ground reservoirs for storage of natural gas, liquefied petroleum gas, oil, petroleum products or natural gas and/or oil production byproducts. Junk and scrap materials do not qualify for inclusion in this category.

§ 5. Section 164-40.I of the Code is hereby amended by the addition of a new sentence at the end of the paragraph to read as follows:

Without limiting Section 164-40.I, heavy industry, mining for fissionable materials, and the use of land for the disposal of natural gas and/or oil production byproducts are expressly prohibited in the Town.

§ 6. Section 164-40.M of the Code, the Table of Use Requirements, is hereby amended by the addition of the following text at the end of Business Use 39 “Extractive Operations” to read as follows:

Extractive operations involving sandpits, gravel banks, removal of topsoil and fill, quarries, mines or other extractive activities, excluding fissionable materials and natural gas, oil or other subsurface hydrocarbons.

§ 7. Effective Date.

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.
I, MARJORIE QUACKENBUSH, Town Clerk of the Town of Warwick, in the County of Orange, State of New York HEREBY CERTIFY that the following resolution #R2013-95 entitled ADOPT LOCAL LAW #2 OF 2013 – ADOPTING A NEW CHAPTER 65 OF THE CODE OF THE TOWN OF WARWICK ENTITLED “PROHIBIT BRINE ON TOWN ROADS” was adopted at the regular meeting of the Town Board of the Town of Warwick duly called and held on Tuesday, FEBRUARY 26, 2013 have been compared by me with the original minutes as officially recorded in the Town Clerk’s Office in the Minute Book of the Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matter.

IN WITNESS WHEREOF, I have hereunto set may hand and affixed the corporate seal of the Town of Warwick this 28th day of February, 2013.

SEAL

[Signature]

Marjorie Quackenbush, Town Clerk
ADOPT LOCAL LAW #2 OF 2013 - ADOPTING A NEW CHAPTER 65 OF THE CODE OF THE TOWN OF WARWICK ENTITLED "PROHIBIT BRINE ON TOWN ROADS"

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS, the State of New York is expected to complete new regulations in 2013 that would allow for the exploration and extraction of natural gas using high volume hydraulic fracturing in combination with horizontal drilling (HVHF) into deep shale formations that lie beneath the Town of Warwick; and

WHEREAS, exploitation of the natural gas resource using present-day HVHF technologies elsewhere in the Nation have resulted in heavy industrial activities with the potential for impacts on the environment and health, which have been documented in the State’s Revised draft Supplemental Environmental Impact Statement (dSGEIS) on the natural gas [oil and solution mining] industry; and

WHEREAS, the Town Board determined that the current Town Code needed to be amended to prohibit an activity that under the State’s current proposed regulations on HVHF could allow for the application of waste byproducts, known as “flowback” or simply “brine” on roads for wintertime de-icing and summertime dust suppression in the Town; and

WHEREAS, according to the dSGEIS, flowback contains “Residual fracturing chemicals and naturally-occurring constituents from the rock formation” and they “could be present in flowback water and could result in treatment, sludge disposal, and receiving-water impacts”; and

WHEREAS, the Town Board declared itself Lead Agency on February 26, 2013 with regard to the SEQR review of the Proposed Action and designated the action as Type 1 under SEQR; and

WHEREAS, the Town Board determined it was the only agency to adopt a Local Law to Prohibit Brine on Town Roads and there were no other involved agencies for purposes of SEQR review of the Proposed Action; and

WHEREAS, the Town Board issued a Negative Declaration following review of a Full Environmental Assessment Form, prepared by the Town Planner, on February 26, 2013 in accordance with 6 NYCRR §617.7 of the SEQR regulations; and

WHEREAS, the Town Board held a public hearing on the Proposed Action on February 11, 2013 and accepted written comments on the Proposed Action until February 21, 2013; and

WHEREAS, the Town Board duly referred the Proposed Action to the Orange County Department of Planning in accordance with the requirements of General Municipal Law §239-1 and 239-m; and

WHEREAS, the Town Board also duly referred the Proposed Action to the Town of Warwick Planning Board for its review and comment; and

WHEREAS, the Town Board has received and reviewed the comments of the Orange County Department of Planning, the comments of the Town of Warwick Planning Board, and has duly evaluated and considered those comments; and
WHEREAS, the Town Board will forward a Notice of adoption of a Negative Declaration for a Type 1 Action to the Environmental Notice Bulletin for publication in accordance with the requirements of NYCRR §617.12(c)(1); and

WHEREAS, the adoption of the Proposed Action is made pursuant to the authority of Municipal Home Rule §10(1)(ii)(d)(3).

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Warwick, hereby adopts Local Law #2 of 2013 entitled "A Local Law to Prohibit Brine on Town Roads"; and it is

FURTHER RESOLVED, that the Town Clerk shall file a copy of the Local Law with the Orange County Department of Planning; and it is

FURTHER RESOLVED, that the Town Clerk shall file copies of Local Law #2 of 2013 with the Department of State, as required by Law.

Roll Call Vote:

- Supervisor Michael Sweeton: Aye
- Councilman Floyd DeAngelo: Aye
- Councilman Russ Kowal: Aye
- Councilman James Gerstner: Aye
- Councilman Mickey Shuback: Abstain

Motion Carried (4 ayes, 0 nays & 1 abstention Councilman Shuback abstaining) Supervisor declared this resolution duly adopted.
Local Law Filing

(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.

TOWN OF WARWICK
LOCAL LAW NO. 2 OF 2013
A LOCAL LAW TO PROHIBIT BRINE ON TOWN ROADS

BE IT ENACTED by the Town Board of the Town of Warwick as follows:

Section 1: Legislative intent.

This local law prohibits the application of oil and gas mining and drilling byproduct, including brine, on town roads and town property.

§ 2. A new Chapter, Chapter 65, to be known as “Brine Prohibition” is added to the Code of the Town of Warwick by replacing “(Reserved)” to read as follows.

§ 65-1

Title. This Local Law shall be known by and may be cited as the “Brine Prohibition Act.”

§ 65-2

Definitions. As used in this Chapter, the following terms shall have the following meanings:

APPLICATION – The physical act of placing natural gas and oil production byproducts on one or more Town roads or one or more pieces of Town property. Each physical act shall be deemed a separate violation. Each time a person stops the placement of natural gas and oil production byproducts for any reason, including but not limited to stopping a vehicle used in the placement or re-loading or replacing of any material or equipment and then resuming placement shall be deemed a separate application.

NATURAL GAS AND OIL PRODUCTION BYPRODUCTS – Any refuse, sludge, or other waste materials, whether or not recycled or reused or intended to be recycled or reused, including solid, liquid, semi-solid, or contained gaseous material that results
from, is associated with or produced as a byproduct of the exploration, drilling or extraction of natural gas and oil and other subsurface hydrocarbons, including without limitation production brine, produced waters, flowback, flowback fluids or hydraulic fracturing fluids.

ROAD — Any public road, street, or bridge owned, maintained or controlled by the Town of Warwick.

§65-3

Prohibition. The application of natural gas and oil production wastes on any Town road or property, whether as a de-icing substance or for any other purpose, is prohibited.

§65-4

Duty of Town Employees. The Town Supervisor and the Superintendent of Highways are authorized to develop policies to ensure Town employees are familiar with this Chapter and take such steps as are required to ensure that materials supplied to the Town or used on Town roads or properties comply with this Law. This shall not excuse non-compliance by a contractor or vendor of the Town.

§65-5

Penalties for Violations.

1. Violation of this chapter is a misdemeanor and punishable by a maximum fine of $1000.00 and/or imprisonment of up to one year for each separate offense.

2. In addition, the Town may seek all appropriate civil remedies including penalties not to exceed $15,000.00 per offense.

§ 3. Severability

The invalidity of any word, section, clause, paragraph, sentence, part of provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

§ 4. Effective Date.

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.