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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 Bristol

Local Law No. 1 of the year 2012.

**A LOCAL LAW TO ESTABLISH AND IMPOSE A TEMPORARY MORATORIUM FOR A PERIOD OF ( 12 ) MONTHS FOLLOWING THE ISSUANCE BY THE NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION OF THE FINAL SUPPLEMENTAL GENERIC ENVIRONMENTAL IMPACT STATEMENT TO RESTRICT EXPLORATION, DRILLING, DEVELOPMENT AND CONSTRUCTION AND THE ISSUING OF SPECIAL USE PERMITS, LICENSES OR OTHER FORMS OF PERMISSION TO DRILL, EXPLORE OR EXTRACT FOR COMMERCIAL AND INDUSTRIAL PURPOSES, HIGH VOLUME HYDRAULIC FRACTURING FOR NATURAL GAS IN ALL DISTRICTS WITHIN THE TOWN OF BRISTOL, COUNTY OF ONTARIO AND STATE OF NEW YORK**

*BE IT ENACTED* by the Town Board of the Town of Bristol, Ontario County, State of New York, as follows:

**SECTION I. Title**

This Local Law shall be known as and may be cited as Local Law No. - 2012, of the Town of Bristol. This legislation imposes a building and land use moratorium upon the issuance of special use permits, licenses or other forms of permission to drill, explore or extract natural gas when required for the drilling, exploration, development and construction of commercial and industrial high volume hydraulic fracturing for natural gas in all districts in the Town for a period of ( 12 ) months from the time when the Supplemental Generic Environmental Impact Statement (SGEIS) relating to the extraction of natural gas by the process of high-volume hydraulic fracturing now under review by the New York State Department of Environmental Conservation is final and permits for such extraction may be issued so far as the New York Environmental Conservation Law is concerned.

**SECTION II. Legislative Findings**

The Town Board of the Town of Bristol finds and hereby determines that it is facing unprecedented growth and development. The Town Board of the Town of Bristol also finds and determines that pursuant to the provisions of section 23-0303 (2), the provisions of Article 23 of the Environmental Law of the State of New York shall supersede all local laws or ordinances relating to the regulation of the oil, gas and solution mining industries within the State of New York. Moreover, the preservation of natural fresh water sources must be maintained. There exists the potential for proposals and projects pertaining to high volume hydraulic fracturing for

natural gas within the Town of Bristol for which the current Town Comprehensive Plan and Zoning Ordinance does not adequately address.

The Town further finds and hereby determines that it is in the best interests of the residents of the Town of Bristol to temporarily halt and restrict development or expansion as aforesaid for a short period to permit the review and consideration of the final Supplemental Generic Environmental Impact Statement (SGEIS) as issued by the New York Department of Environmental Conservation, and the consideration and adoption of Comprehensive Plan Amendments and a new set of zoning regulations are prepared for the Town of Bristol. Such moratorium will permit the Department of Environmental Conservation to finalize the SGEIS and provide adequate time for the Town to complete the development of proper planning methods and to restrict and prevent potential uses which presently do not conform with present zoning and which engenders public debate on such extraction and development.

The Town Board has duly or shall authorize and empower a committee to prepare and propose Comprehensive Plan and Zoning Amendments and land use regulations including regulations pertaining to high volume hydraulic fracturing for natural gas. Moreover the Town Board wishes to permit the New York State Department of Environmental Conservation and other state and federal agencies the opportunity to complete the development of regulations pertaining to such high volume hydraulic fracturing for natural gas as a means to develop the Town on an economically and environmentally sound basis; thus properly providing for the future growth and development of the Town and affording adequacy of facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its citizens. Thereafter, the committee has been or will be charged with the duty and responsibility of reporting its recommendations for affecting such land use regulations to the Town Board. The Town Board does hereby find that pending completion of the SGEIS and the necessary surveys, studies, meetings, hearings, and other actions incident to the proper considerations to amending the Town Zoning Ordinance, significant development, drilling, high volume hydraulic fracturing may, in the absence of action by the Town Board, occur which may be inconsistent with the ultimate guidelines and recommendation of the Comprehensive Plan.

The Town Board further finds that further significant development in the Town of Bristol prior to the completion of the revisions and actions which may be necessary for the proper consideration and formulation of revisions to existing regulations and the adoption of appropriate zoning laws and any revisions and amendments to other existing land use laws, ordinances and regulations may substantially reduce the effectiveness of such zoning laws, and other land use laws, ordinances and regulations adopted, result in a potentially negative environmental impact upon the Town's valuable natural resources and interfere with the ability of the Town Board to properly plan for growth and development and its ability to afford adequate facilities for the distribution of public services, comfort, convenience, public health and safety, and the general welfare of the citizenry of the Town of Bristol. It is the intention of the Town Board to protect the Town and preserve its integrity and valuable resources by adopting reasonable interim development regulations during the preparation and consideration of the aforementioned Plan, zoning laws, or ordinances and protective changes in the other existing land use laws, ordinances, and regulations, which protective changes in the other existing land use laws, ordinances and regulations, which will thereby protect the public interest and welfare until such have been implemented. The Town Board finds that the within interim law is the most appropriate means to accomplish the objectives set forth in this statement of legislative intent pending completion of the necessary surveys, studies, meetings, hearings, and other actions incident to the proper consideration of a comprehensive zoning plan and the development of a

comprehensive plan for the future development of the Town of Bristol.

The Town Board of the Town of Bristol further finds that a review and appeals procedure is appropriate in order to avoid or minimize any inequities or undue hardships which may derive from the strict application of this Local Law.

**SECTION III. Moratorium**

For a period of ( 12 ) months from the date of completion and filing of the SGEIS by the New York Department of Environmental Conservation, which date of completion and filing shall be herein defined as the effective date of this Local Law, the following interim development restrictions shall apply, and no applications for special use permits, licenses or other forms of permission shall be granted as it would apply to the following:

A. High volume hydraulic fracturing for natural gas.

Said interim moratorium shall restrict and prohibit development of the aforementioned uses in all districts within the Town of Bristol.

During the period of the moratorium, the Planning Board and Code Enforcement Officer of the Town of Bristol shall not review, grant approval, or issue permits to such developments and uses prohibited by this Local Law.

The above-stated regulations shall not apply to the following development or construction:

A. The continuance, maintenance, repair, replacement, modification, or alteration of existing commercial or industrial natural gas extraction facilities (“Facilities”) that do not use the so-called high volume hydraulic fracturing process for natural gas extraction; provided, however, that such does not constitute a new use of such existing Facilities;

B. Additions, alterations, rebuilding, or reconstruction of existing Facilities;

C. Certificate of Occupancy for any and all construction performed pursuant to building permits issued prior to the effective date of this Local Law;

D. Building permits and Certificates of Occupancy for Facilities on lots of record or lots within subdivision plats which have received final approval from the New York State Department of Environmental Conservation and the Town of Bristol Planning Board prior to the effective date of this Local Law;

E. As used in this Section, the term “new use” shall mean and refer to any change in the type of use of Facility (e.g. to high volume hydraulic fracturing) or any modification or expansion of any use previously approved or which constitutes a non-conforming use prior to the enactment of this Local Law; and

F. The Town Board reserves the right to direct the Code Enforcement Officer to revoke or rescind any building permits or Certificates of Occupancy issued in violation of this Local Law.

**SECTION IV. Appeal Provisions/Variances**

The Town Board shall have the power to vary or modify the application of any provision of this Local Law upon its determination, in its absolute legislative discretion, after Public Hearing on Notice, that this Local Law would impose extraordinary hardship upon a landowner or developer, and that a variance from this legislation will not adversely affect the health, safety and general welfare of the Town of Bristol. Any request for an exception or variance shall be filed with the Town Supervisor or his designee and shall include a fee of One Hundred and 00/100 Dollars (\$100.00) for the processing of such application. All such applications shall be promptly referred to the Planning Board for Hearing and recommendation, and shall thereafter be remanded to the Town Board for a Public Hearing and final decision.

**SECTION V. Penalties**

Any person, firm, entity, or corporation who/which shall construct, erect, enlarge or alter any use, facility, building or structure in violation of the provisions of this Local Law shall be subject to the following:

- A. A penalty in the amount of One Hundred and 00/100 Dollars (\$100.00) for each day the violation shall exist; and
- B. Furthermore, the Town of Bristol shall also be entitled to seek injunctive relief in favor of the Town for the purpose of ceasing activities or operations which are in conflict with this Local Law.

**SECTION VI. Validity and Severability**

Should any word, section, clause, paragraph, sentence, part or provision of this Local Law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

**SECTION VII. Repeal, amendment and Supersession of Other Laws**

This Local Law hereby repeals all other Ordinances or Local Laws of the Town of Bristol in conflict with the provisions of this Local Law and the same are hereby superceded or repealed to the extent necessary to give this Local Law full force and affect during its effective period. Without limiting the foregoing, this Local Law supercedes the provisions of Section 276 of the Town Law of the State of New York, including, but not limited to, Subdivision 4 contained therein, as well as any Local Law, Ordinance, or regulation inconsistent with this Local Law, specifically with regard to default approval provisions.

**SECTION VIII. Effective Date**

This Local Law after its adoption by the Town Board of the Town of Bristol, shall take effect upon its filing with the Office of the Secretary of State of the State of New York and shall remain in effect for a period of ( 12 ) months after the completion of the final SGEIS by the New York State Department of Environmental Conservation.