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DRAFT

Town of Springfield Local Law No. ___ of 2011

Protection of Rural Environment Local Law of the Town of Springfield

Be it Enacted by the Town Board of the Town of Springfield, Otsego County, New York, as follows:

I. Title

This Local Law shall be known as the "Protection of Rural Environment Local Law of the Town of Springfield", adopted as Town of Springfield Local Law No. ___ of 2011.

II. Enactment

This Local Law is adopted and enacted pursuant to the authority and power granted by Municipal Home Rule Law of the State of New York, Articles 2 and 3, and pursuant to Article 2 of the New York State Statute of Local Governments.

III. Purpose

The purposes of this Local Law, which prohibits heavy industry within the Town, are as follows:

It is the purpose of this Local Law to promote the protection, order, conduct, safety, health, and well-being of the residents of Springfield and the lands which lie within the Town's borders.

It is the purpose of this Local Law to protect and enhance the Town's physical and visual environment.

It is the purpose of this Local Law to respond to the present, legitimate concerns of the citizens of the Town about the potential for a huge expansion of natural gas drilling in the Town and about the potential for major portions of the Town and its citizens to be adversely impacted by the drilling and operation of natural gas wells and by the activities associated with their operation.

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It is the purpose of this Local Law to protect the citizens of the Town of Springfield from potential human health hazards presented by natural gas exploration, extraction or processing as evidenced by the recent public statements issued by the medical community.

It is the purpose of this Local Law to uphold and implement the Town of Springfield Comprehensive Plan.

The Town Board of the Town of Springfield, in adopting a comprehensive plan in September 2009, established town policy guiding future growth and development as follows:

- A. Maintain the rural, small town and scenic character of Springfield as it grows. The character of Springfield is largely shaped by its open spaces, vibrant farms, woodlands, scenic views, rolling hills, low-density of houses, traditional hamlets, and Otsego Lake.
- B. Protect environmental resources including drinking water, watersheds, Otsego Lake, streams and wetlands.
- C. Provide quality and up-to-date infrastructure including roads, emergency services and tele-communications and ensure all new infrastructure is rural in scale.
- D. Enhance recreational opportunities for all ages and capitalize on Otsego Lake.
- E. Promote and protect our historic structures and landscapes.
- F. Promote agricultural businesses and local farm products, and protect farmlands.
- G. Promote small businesses that provide local jobs, contribute to the tax base and that do not detract from our rural and small town character.

Further, the Town Board, in adopting its comprehensive plan incorporated analysis of natural resources from the Final Generic Environmental Impact Statement on the Capacities of the Cooperstown Region (December, 2002), which established that:

- H. Surface water bodies in Springfield, especially Otsego Lake play many critical ecological and cultural roles including providing drinking water, wildlife and plant habitats and recreational uses.

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- I. Natural features including limestone bedrock, and other surface and bedrock geology are such that development has the potential to adversely alter surface water and ground water flow patterns, introducing pollutants that can destroy natural ecosystems and groundwater resources. Potential impacts on the area's bedrock include contamination from chemicals or petroleum products, or pollution of aquifers located in bedrock.
- J. Bedrock aquifers are limited or absent throughout a significant portion of the Town and developments that rely on wells and aquifers in bedrock are likely to be limited by low yield of water. Further, development may result in inadequate water production as well as degradation of water quality.
- K. Unconsolidated aquifers found in valley locations in Springfield are particularly susceptible to ground water contamination because of moderate to high permeability of soils located above these aquifers. Point and nonpoint discharges can impact these aquifers including such pollutant sources as septic systems, fertilizer and pesticide application, and storage, handling, transport, and use of chemicals and petroleum products.

Further, the Town Board, in adopting its comprehensive plan specifically established the following key principles:

- L. Maintain the character of rural roads.
- M. Protect aquifers from being polluted.
- N. Protect public water supplies.
- O. Protect streams and streamside vegetation.
- P. Reduce traffic impacts.
- Q. Ensure that all roads are maintained as rural roads and that all new roads are built to rural road standards.
- R. Assess and protect historic resources and landscapes.
- S. Ensure that economic development programs and new development efforts are not at cross-purposes with agriculture and farmland protection efforts, and to protect critical farming areas in Springfield.
- T. Ensure that new development is consistent in maintaining rural character.

U. Ensure that the environmental resources of Springfield are protected.

Further, it is the purpose of this Local Law to prohibit those activities related to heavy industry, which may impact wetlands, lakes, streams, groundwater resources, public drinking supplies, public roads, historic landscapes, agriculture, small town character, and the area's tourism and recreational-based economy. Impacts related to heavy industry that Springfield seeks to avoid include, but are not limited to contaminated water supplies, air pollution, traffic congestion, deterioration of roads and bridges, noise, introduction of industrial uses into non-industrial areas, human and animal illness, and incompatible changes to the rural character of Town.

IV. Definitions

Agriculture - The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including timber operations as defined in AML Article 25-AA (301).

Aquifer - A geologic formation, group of formations, or part of a formation capable of storing or transmitting and yielding ground water to wells or springs.

Comprehensive Plan - A long-range plan intended to guide the growth and development of the Town of Springfield which includes inventory and analysis leading to recommendations for the Town's land use, future economic development, agriculture, housing, recreation and open space, transportation, community facilities, and community design, all related to the Town's goals and objectives for these elements and adopted pursuant to New York Town Law 272-a.

Environment - All external conditions and influences in an area including geology, water resources, air quality, plants and animals, agricultural resources, aesthetic resources, historic resources, open space resources, recreational, cultural, and municipal resources, road and transportation systems, visual character and community character.

Natural Gas Exploration, Extraction, or Processing - The exploration for natural gas, the extraction of natural gas from the ground regardless of the extraction method used, and/or the processing of natural gas. This definition shall specifically include, but not be limited to, the extraction method commonly known as hydraulic fracturing. This definition shall also be construed to encompass and include any activity or use of land which facilitates or supports natural gas exploration, extraction, or

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processing. Examples of activities or uses of land expressly intended to be included in this definition are set forth below:

- Drilling and/or installation of a new well, regardless of well type;
- Development of a well operations site and associated structures and infrastructure;
- Mixing, storage, treatment, and/or disposal of chemicals, wastewater, proppant or other materials used for, or in connection in any way with, the exploration for or extraction of natural gas;
- Parking, standing and/or storage of any type of vehicle, equipment, and/or materials used for, or in connection in any way with, the exploration for or extraction of natural gas;
- Installation and/or use of pipes, conduits or other material transport or gathering equipment or systems used for, or in connection in any way with, the exploration for or extraction of natural gas

It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to those activities identified in the examples.

Generic Environmental Impact Statement on the Capacities of the Cooperstown Region – An environmental impact statement prepared pursuant to 6 NYCRR Part 617 of the New York State Environmental Conservation Law to examine current conditions of the Cooperstown area and that identifies locations that have environmental sensitivities and limitations for land use and analyzes the area's capacity for future development.

Heavy Industry – Any use or activity, which generates significant volumes of smoke, odors, noise, or other polluting wastes and is not compatible with other uses in the Town of Springfield. Examples of "heavy industry" which are intended to be included in this definition are: chemical manufacturing; exploration for natural gas; extraction of natural gas; natural gas processing facilities (as defined elsewhere in this Law) and/or compressor stations; exploration for crude oil; extraction of crude oil; oil refineries; coal mining; coal processing; and steel manufacturing. It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to the activities identified in the examples.

Generic examples of uses not intended to be included in the definition of "heavy industry" are: milk processing plants; dairy farms; office and communications uses; garment factories; woodworking and cabinet shops; automobile repair shops;

wineries and breweries; warehouses; equipment repair and maintenance facilities; helipads; parking lots and parking garages; light manufacturing or light industrial facilities (as defined elsewhere in this Law); agriculture; and surface gravel and sand mining. It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to those activities identified in the examples.

Light Manufacturing And Light Industrial Operations - A facility or use which does not produce high volumes of polluting wastes, is compatible with other uses in its surrounding area or neighborhood, does not require heavy, noisy or otherwise objectionable machinery or transporting equipment, and in addition, meets one of the following descriptions:

- i. Light Manufacturing. A use involving the manufacture of a product, subject to compliance with any other applicable ordinances, laws or regulations, in one of the following categories:
 - A. Food and beverage production, including but not limited to such uses as a dairy processing plant, bakery, and bottling plant.
 - B. Apparel and other textile products.
 - C. Furniture and fixtures.
 - D. Printing and publishing.
 - E. Electrical and electronic machinery and equipment.
 - F. Metal fabrication.
 - G. Mail order distribution center.
 - H. Warehousing ancillary to the authorized use.
- ii. Light Industrial. A facility which manufactures, designs, assembles, or processes a product for wholesale or retail sale.

Non-Conforming Use - A use or activity that was lawful prior to the adoption of this Local Law but that fails by reason of such adoption to conform to the present requirements of the law.

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Pollution - The presence in the environment of human-induced conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant, or animal life or to property.

Road - A vehicular access way either currently designated as a Town, County or State Road, or any private platted access way, built to town requirements.

Waterbody - Any natural or artificial pond, lake, reservoir, or other area which usually or intermittently contains water and which has a discernible shoreline.

Watercourse -

- i. Rivers, streams, brooks and waterways which are delineated on the most recent edition of the United States Geological Survey topographic maps of the Town.
- ii. Any other streams, brooks and waterways containing running water for a total of at least three (3) months a year.
- iii. Lakes, ponds, marshes, swamps, bogs, natural springs and all other bodies of water, natural or artificial, which are fed by or have discharge to another wetland, waterbody or watercourse.

V. Regulation

- A. Beginning on the effective date of this Local Law, it shall be unlawful for any person to conduct any new "Heavy Industry", as the term is defined in this Local Law, within the Town of Springfield.

VI. Enforcement

- A. Upon authorization by the Town Board, the Town may institute an action or proceeding in a court of competent jurisdiction to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Law.

VII. Non-Conforming Uses

New "Heavy Industry" uses, as defined elsewhere in this Law, shall be prohibited in the Town of Springfield beginning on the effective date of this Local Law. The

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definition of "Heavy Industry" in this Law (Section IV) includes, but is not limited to the exploration for natural gas; extraction of natural gas; natural gas processing facilities; exploration for crude oil; extraction of crude oil; oil refineries; coal mining; coal processing. For the purposes of this provision of the Law (Section VII), and solely for the ease of drafting and reading, all those uses and activities shall be referred to collectively as "gas, oil and coal extraction".

Any leases of property for the purpose of allowing gas, oil or coal extraction, or any gas, oil or coal extraction operations which are being presently conducted on land in the Town as of the effective date of this Law, shall be subject to the following:

A. Existing Leases:

1. Where a lease which allows gas, oil or coal extraction has been executed and where no substantive gas, oil or coal extraction activity has substantively commenced as of the effective date of this Local Law, then this Local Law shall apply in full effect and shall operate to prohibit all such activities. The existence of a lease under the circumstances described in this paragraph shall convey no vested right upon either party to the lease.

B. Existing Gas, Oil and Coal Extraction Operations

1. Where a lease which allows gas, oil, or coal extraction has been executed, and where substantive gas, oil or coal mining extraction activity is occurring as of the effective date of this Law, and those activities are being conducted pursuant to valid permits issued by the New York State Department of Environmental Conservation or other regulating agencies, in that case the activity shall be considered a non-conforming use and shall be allowed to continue.
2. Upon the depletion of any gas or oil well or coal mine which is allowed to remain in operation pursuant to this provision, or upon any other termination of the gas, oil or coal extraction activity for a period of more than one (1) year, the non-conforming use status of that activity shall terminate and the activity may not be renewed.
3. Further, no gas, oil or coal extraction activity allowed to remain in operation pursuant to this provision shall be permitted to expand after the effective date of this Local Law.

VIII. Severability

If any specific part or provision or standard of this Local Law, or the application thereof to any person or circumstance, be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have enacted this Local Law, or the remainder thereof.

IX. INTERPRETATION; CONFLICT WITH OTHER LAWS

In their interpretation and application, the provisions of this Local Law shall be held to be minimum requirements adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this Local Law are inconsistent with the requirement of any other lawfully adopted rules, regulations, ordinances or local laws, the more restrictive provisions, or those imposing the higher standards, shall govern.

X. Effective Date

This Local Law shall take effect immediately upon filing with the Office of the Secretary of State of the State of New York, in accordance with the applicable provisions of law, and specifically Article 3, Section 27 of the New York State Municipal Home Rule Law.

SPRINGFIELD TOWN BOARD

RESOLUTION

**DETERMINING THE ENVIRONMENTAL NON-SIGNIFICANCE OF THE PROPOSED
"PROTECTION OF RURAL ENVIRONMENT LOCAL LAW OF THE TOWN OF SPRINGFIELD"
UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT**

DATE: APRIL 18, 2011

WHEREAS, the Town Board of the Town of Springfield ("Town Board") desired to develop and eventually adopt a local law regulating heavy industries in the Town (entitled "Protection of Rural Environment Local Law of the Town of Springfield) in order to protect the health, safety and welfare of the residents of Springfield and to implement the adopted Town of Springfield Comprehensive Plan (the proposed action); and

WHEREAS, a local law ^{PROHIBITING} ~~regulating~~ heavy industrial uses was developed in accordance with the Town of Springfield Comprehensive Plan; and

WHEREAS, the law was drafted, and reviewed by the Town Board, its planning consultant and Attorneys; and

WHEREAS, the Town of Springfield has prepared an Environmental Assessment Form, Parts I and II, in connection with the proposed action; and

WHEREAS, the proposed action constitutes a Type I Action pursuant to the regulations of the State Environmental Quality Review Act (SEQRA) (6 NYCRR Part 617); and

WHEREAS, the Town Board is the only involved agency and the proposed action does not require any other permits or approvals from other State and Federal agencies prior to adoption;

WHEREAS, on March 14, 2011 the Town Board declared itself Lead Agency (6 NYCRR Part 617); and

WHEREAS, as lead agency, the Town Board conducted an environmental review in accordance with the requirements of SEQRA and has considered the proposed action, reviewed the Full Environmental Assessment Form Parts I and II filed with the lead agency in connection with the proposed action, reviewed the criteria set forth in the SEQRA Regulations at 6 NYCRR Part 617.7(c), thoroughly analyzed the relevant areas of environmental concern, has taken a "hard look" at the potential adverse environmental impacts of the proposed action on those relevant areas of environmental concern, and has determined that the proposed action will not result in any adverse environmental impacts, and in fact, will result in impacts beneficial to the environment by protecting and preserving the environment and natural resources of the Town of Springfield and by avoiding the potential adverse environmental impacts of heavy industrial uses.

**NOW THEREFORE BE IT RESOLVED BY THE TOWN OF SPRINGFIELD
TOWN BOARD AS FOLLOWS:**

SECTION 1. Based upon the foregoing, the Town of Springfield Town Board hereby declares that the proposed action, specifically the adoption of the law entitled "Protection of Rural

Environment Law of the Town of Springfield” will not have any significant adverse environmental impacts; and

SECTION 2. The Town Board adopts a Negative Declaration as its determination of significance pursuant to SEQRA in connection with the environmental review of the proposed action and adopts the findings, conclusion and reasoning contained within the attached Negative Declaration and Full Environmental Assessment Form; and

SECTION 3. The Town Board authorizes the Town Supervisor to sign the Negative Declaration and sign the Full Environmental Assessment Form; and

SECTION 4. The Town Board authorizes the forwarding of a copy of the Negative Declaration to the New York State Department of Environmental Conservation for the purposes of publication of the Negative Declaration in the Environmental Notice Bulletin in accordance with the requirements of Part 617.12 of the SEQRA Regulations; and

SECTION 5. The Town Board authorizes the filing of a copy of the Negative Declaration in the office of the Town of Springfield Town Supervisor; and

SECTION 6. This resolution shall take effect immediately.

WHEREUPON, this Resolution was declared adopted by the Town Board of the Town of Springfield:

The motion was moved by Charles F. Cuelbert

The motion was seconded by Daniel Rosen

Motion approved: William L. Elsey, Charles F. Cuelbert

Date of Adoption: 4/18, 2011 Richard Rethman
Town of Springfield Town Hall, Springfield Center, NY

William L. Elsey
Daniel Rosen