

**TOWN OF BRISTOL LOCAL LAW NO \_\_\_ OF 2014** A local law to effect the Town of Bristol, Ontario County, New York (hereinafter "Town"), as it pertains to High Volume Hydraulic Fracturing, Natural Gas and Petroleum Exploration and Extraction Activities, Underground Storage of Natural Gas, and Disposal of Natural Gas or Petroleum Extraction, Exploration and Production Wastes.

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

**Section 1. Title**

This Local Law shall be known as the "Bristol Local Law High Volume Hydraulic Fracturing of Gas, 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. This law is an amendment to the Town of Bristol Zoning Ordinance adopted pursuant to Article 16 of New York State Town Law and is intended to protect the public health, safety, and welfare of Town of Bristol residents through a Town-wide prohibition of defined land uses related to the large scale extraction and storage of petroleum and natural gas.

B. Findings of Fact - The Town of Bristol makes the following findings of fact:

**Large scale oil and gas extraction operations have many of the characteristics and resulting impacts of a heavy industrial land use.** The Town of Bristol has not been the location of HVHF activity in the past. The Town believes it is appropriate to evaluate the advisability of developing and enacting legislative standards to ensure that any industrial activity contemplated for the Town take place only if compatible with land uses aligned with the Town's Comprehensive Plan. It is the intention of the Town Board of the Town and Bristol to preserve the integrity, safeguard its valuable resources and ensure the Town's unique character remain undisturbed for the future.

**The Town of Bristol is not zoned for heavy industrial uses.** The Town zoning map includes three light industrial districts. The list of allowed uses is confined to lower intensity uses unlikely to generate impacts like that of large oil and gas operations which are not allowed within the light industrial districts. The Zoning Ordinance also requires that the allowed light industrial uses occur within enclosed buildings. A special use permit with Planning Board review and approval is required for outdoor storage associated with light industrial uses. (Zoning Ordinance, Article 12, Section V). The intent of the Light Industrial zone designation is to provide an area for small scale, low intensity uses that will have minimal potential for offsite land use impacts. Examples of existing development in the light industrial districts that meet this intent are: a pipe organ repair and assembly facility and a pottery making operation.

**This law will protect public infrastructure and reduce potential negative impacts related to trucking.** High volume hydrofracking requires a large amount of concentrated truck traffic resulting in an increased potential for damage to the Town's roads as well as air pollution, dust, and odors that could negatively impact the safety, aesthetic, and environmental stability of Bristol.

**Prohibition of Land uses related to the large-scale extraction of oil and natural gas is consistent with the Town's Comprehensive Plan.** *The Town of Bristol is facing unprecedented growth and development. This is an opinion made by the focus panel and not a fact and should not be included under findings of fact.* As outlined in our Comprehensive Plan, Bristol is a community that takes great pride and assigns extraordinary value in its rural character, recreational assets, agricultural lands, and other natural and scenic resources. According the latest Town of Bristol Comprehensive Plan, compiled from the results of a survey of Town property owners, Section 1 underscores these aforementioned values:

### Conservation of Open Space and Environmental Protection

To improve the condition of the environment and protect it from degradation

- \*Protect Bristol's natural resources
- \*Conservation measures will be taken to protect and further enhance our environment
- \*Retain and nurture existing forest lands and open areas
- \*Protect, preserve and enhance Bristol's four watersheds (upper and lower Honeoye Creek, Mud-Ganargua Creek and Canandaigua Lake)
- \*Encourage environmentally beneficial land uses and land controls in the watersheds

Section 2 of Bristol's Comprehensive Plan further points to its cherished aesthetic qualities:

#### Community Character

Preserve our rural character, protect our natural resources and maintain scenic vistas

- \*Ongoing attention to the preservation of rural character
- \*Protect natural resources
- What are the natural resources that we are protecting? Should they be listed and add the verbiage included but not limited to?
- \*Maintain scenic vistas

With the adoption of this law, the Town Board and Town of Bristol remain committed to the Vision Statement in that plan to "preserve and encourage a clean, naturally beautiful, rural environment with carefully planned commercial development, aesthetically pleasing, controlled residential growth, and increased recreational opportunities, while encouraging the preservation of agricultural lands.

**This law will further protect natural resources critical to the health and safety and welfare of Town residents.** The operations associated with large scale extraction of oil and natural gas, and the activities described in this Local Law, may pose detrimental health and environmental effects to Bristol's unique treasures. Town residents get their water supply from wells and are dependent on aquifers for life-sustaining water. Maintaining the quality of resources within the Town is critical to protecting the natural environment, the public health, and the local economy. Preservation of the Town's irreplaceable recreational and scenic sites, agricultural land, air and water quality, and priceless and unique character is of significant value to the residents, as evidenced by the public's comments at recent Town Board meetings and the Town of Bristol's Comprehensive Plan. The Town's rich natural environment is a valuable asset that creates a sense of identity and well-being for residents of the area. The aesthetic quality of a place, the integrity of its natural resources, and the condition of its infrastructure are matters that deeply affect whether people want to live, visit, or locate a business in that place. Therefore, preserving and protecting the distinct scenic, recreational, and other natural resources of the Town are important for both a healthy environment and **growing economy**.

**Definitions (New)** The following definitions shall be added to Article III, Section Two of the Town of Bristol Zoning Ordinance:

High-Volume Hydraulic Fracturing: Hydraulic Fracturing using 80,000 gallons or more of liquid as the base of fracturing fluid.

Hydraulic Fracturing -The practice of pumping fluid and a propping material typically composed of sand or other chemicals, down a well under high pressure to create fractures in gas-bearing rock.

Material Disposal Site – A site where waste from Natural Gas Exploration and/or Petroleum Extraction Activities is discarded, stored or deposited above or below the surface of the earth.

Natural Gas and/or Petroleum Extraction Activities – The drilling of a well, digging or other ground disturbance, including all forms of Hydraulic Fracturing, done to explore for, develop and/or extract natural gas, petroleum or other subsurface hydrocarbons.

Natural Gas and/or Petroleum Extraction Support Activities – any structure, facility, process, building, machinery, accessory use and/or equipment used directly in connection with Natural Gas and/or Petroleum Extraction Activities. This includes but is not limited to; storage or treatment of wastes from Natural Gas and/or Petroleum Extraction Activities, Natural Gas Processing Facilities, and Underground Natural Gas Storage. *Do we want to keep this definition?*

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 drying 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 CO<sub>2</sub> separated from natural gas streams.

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. *Do we want to keep this definition?*

**Definitions (Amended)** The following definitions in Article III, Section Two of the Town of Bristol Zoning Ordinance shall be amended as follows:

Essential Service. Underground surface or overhead electrical, gas, steam, water and sewage transmission and collection systems and the equipment and appurtenances necessary for such systems to furnish an adequate level of public services. This does not include uses prohibited under Section XIII, Part 1 of this Chapter.

Public Utility Facilities. Telephone and electric lines, poles, equipment and structures; water or gas pipes, mains, valves or structures, sewer pipes, valves or structures; pumping stations; telephone exchanges and repeater stations; and all other facilities, equipment and structures necessary for conducting a service by a government or public utility. This does not include uses prohibited under Section XIII, Part 1 of this Chapter.

Production and Assembly Uses – processing raw materials and component parts into finished products for distribution or retail sale.

**Definitions (Deleted)** The following definitions are hereby deleted from Article III, Section Two of the Town of Bristol Zoning ordinance:

Light Industry. Industrial uses which meet the performance standards, bulk controls and other requirements established in this Zoning Local Law.

**The following language is added to the Town of Bristol Zoning Ordinance, Article Six “Provisions Applicable to All Use Districts”**

Section XIII.

1. The following uses, as defined in Article III Section Two of this Ordinance, are prohibited within the Town of Bristol:

**A. Operations using High-Volume Hydraulic Fracturing**

*A land use authority should be a broader approach rather than focusing on a single method of extraction. Should we stay with just HVHF or should we say there is no place for LARGE SCALE OIL AND GAS EXTRACTION IN THE TOWN OF BRISTOL?*

B. Material Disposal Sites

C. Natural Gas and/or Petroleum Extraction Activities

D. Natural Gas and/or Petroleum Extraction Support Activities

What is the Town Board's intent with regard to C&D? What exactly does the Town Board want not to be allowed? The Planning Board wants to be sure of what is being prohibited.

2. The prohibition in Part 1 of this section shall not apply to the following development or construction:

- A. Continuation of existing facilities in compliance with Article Twelve, Sections I, II and III of this Chapter.

Section I. Non-Conforming Uses

The lawful use of any building or land existing at the time of enactment of this Local Law may be continued although such use does not conform with the provisions of this Local Law for the use district in which such building or land is located, provided that a non-conforming lot shall not be further reduced in size, and a non-conforming building shall not be enlarged, extended or increased unless such enlargement would not increase the degree of nonconformity. No non-conforming use may be expanded.

This would prevent Honeoye Storage from being able to expand as written.

Section II. Non-Conforming Use: Abandonment/Restoration

A non-conforming use shall be deemed abandoned when there occurs a cessation of any use or activity by an apparent act or failure to act on the part of the owner or tenant to reinstate such use within a period of one (1) year from the date of cessation or discontinuance. Nothing contained in this Local Law shall be construed to prevent the restoration within one (1) year of any building or structure damaged or destroyed by fire or calamity.

Section III. Non-Conforming Use: Reinstatement

No non-conforming use shall be reinstated if it has once been changed into a conforming use.

Is this enough or should it be ramped up

- B. Certificate of Occupancy for any and all construction performed pursuant to building permits issued prior to the effective date of this Local Law;
- C. Natural Gas and/or Petroleum Extraction Activities that; are conducted only to provide natural gas and/or petroleum to an end user on the same lot and do not involve High-Volume Hydraulic Fracturing.

SECTION XIV.

1. Before site modifications are made to allow Natural Gas and/or Petroleum Extraction Activities that are not prohibited by this chapter, the landowner shall register with the Code Enforcement Officer. This registration shall include:
- A. A site plan, drawn to scale and clearly depicting, at a minimum, all existing and proposed:
1. Zoning classification(s)
  2. Property lines.
  3. Location and nature of all existing easements, deed restrictions and other encumbrances.
  4. Environmentally sensitive features including surface water, wetlands, flood plains and steep slopes.
  5. Land use(s).

6. Development, including utilities, buildings, pavement and other improvements, and
  7. Property line setbacks for all buildings.
- B.** Information sufficient to verify that what is being proposed; *if not than the application should be considered incomplete.*
1. Will not involve High Volume Hydrofracking.
  2. Will be conducted only to provide natural gas and/or petroleum to an end user on the same lot.
  3. Has all necessary permits from the NYSDEC and all other permitting agencies. Registrants shall submit a copy of all required permits and contact information for all permitting agencies.
  4. Includes required financial sureties and other measures to ensure compliance with permitting requirements imposed by the NYSDEC and all other permitting agencies.
2. Code Enforcement officer may require additional information as needed to ascertain and document compliance with this chapter. *Planning Board feels this should be removed.*
  3. The Code Enforcement Officer shall review the registration to ensure it is complete and determine if other approvals may be needed from the Town or other agencies.
  4. Upon determination that the registration is complete and that no other approvals are required, the CEO shall notify the registrant and coordinate with the registrant and outside permitting agencies as necessary to establish a schedule for inspections to ensure the registered Natural Gas and/or Petroleum Extraction Activities continue to comply with this chapter.

**The Town of Bristol Zoning Ordinance, Article Twelve Special Regulations is amended to read as follows:**

Section V. Light Industrial

In Light Industrial (L-I) Use District, all light industrial processes shall take place within an enclosed building. A Special Use Permit shall allow light industrial storage out of doors. Light industrial uses shall be located so as to be a minimum of one-hundred (100) feet and adequately buffered from any non-industrial use district. This provision may be varied at the discretion of the Zoning Board of Appeals if it is in the best interest of the Town of Bristol or neighborhood and if it does not conflict with the Comprehensive Plan of the Town of Bristol.

**Town of Bristol Zoning Ordinance, Article Twenty One "Validity" shall be amended to read as follows:**

1. Should any word, section, clause, paragraph, sentence, part or provision of this Chapter be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.
2. No permit or approval issued by local or state agency, department, commission or board for any use that would violate this chapter shall be sufficient to permit such use within the Town of Bristol.

**Section 3. Superseding Intent and Effect**

This law supersedes any inconsistent provisions of the Zoning Code of the Town of Bristol and any inconsistent provisions of all other local ordinances, local laws or local resolutions of the Town of Bristol.

**Section 4. Effective Date**

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