

# Local Law Filing

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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.

County  City  Town  Village  
(Select one.)

of Stafford

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SEP 30 2015

DEPARTMENT OF STATE

Local Law No. 1 of the year 2015

A local law to Amend and Supplement the "Zoning Law of the Town of Stafford", Including Prohibitions  
(Insert Title)  
for Certain Natural Gas and Petroleum Exploration, Extraction, Storage and Disposal

Activities

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Stafford

as follows:

## Article I. General Provisions

### Section 1.1. Authority for Adoption

The Town Board 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.

### Section 1.2. Findings of Fact

The Town Board has heretofore made certain findings, determinations, and declarations relative to the matters set forth in this Local Law, and a copy of the text of such findings, determinations, and declarations is set forth at Section 2. of **Appendix A** attached hereto.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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### **Section 1.3. Purpose & Intent**

The Purposes and Legislative Intent underlying the Town Board's passage of this Local Law are set forth at Section 3. of Appendix A attached hereto.

### **Section 1.4. Definition of "Existing Zoning Law," this "Local Law," and "this Law"**

As used in this Local Law, the term "Existing Zoning Law" shall mean and be the "Zoning Law of the Town of Stafford", codified on February 14, 2011, in Chapter 182 of the "Code of the Town of Stafford", as amended to date.

As used herein, the term this "Local Law" shall mean and be this Local Law No. 1 of 2015.

As used in Article II of this Local Law, the term "this Law," "this chapter," this "Chapter," "this Zoning Chapter," and "herein" shall mean, be, and refer to the Existing Zoning Law as amended by this Local Law.

### **Section 1.5. Interpretation**

The statements of purpose, intent and findings are legislatively adopted along with the formal text of the amendments to the Existing Zoning Law effected by this Local Law. They are intended as a legal guide to the administration and interpretation of this Local Law and shall be treated as legislative history.

This Local Law is intended to supersede any provision of the New York State Town Law that is inconsistent herewith.

## **Article II. Amendments of Existing Zoning Law**

### **2.1. Amendments to Article I of the Existing Zoning Law**

A. Section 182-4(A) of the of the Existing Zoning Law is hereby amended so as to delete the present first sentence of text thereof (beginning "No building shall be erected ...") in the entirety, and to substitute the following text therefor:

"No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved or altered, unless in conformity with the regulations herein specified for the district in which it is located, and no building shall hereafter be erected or altered to exceed the height, to accommodate, or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, or side yards, than is specified herein for the district in which such building is located, and what is specified within this ordinance as to dimensional and similar area requirements is further limited and qualified by any restrictions imposed by any applicable additional requirements, standards, and/or regulations contained in

this Law."

**B.** Section 182-4(C) of the of the Existing Zoning Law is hereby amended so as to delete the present text thereof (beginning "This Local Law shall not apply ...") in the entirety, and to substitute the following text therefor:

"Any use not specifically set forth as a permitted use (as of right, accessory, or upon special permit, as the context may admit) in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district. Without limiting the generality of the foregoing, for purposes of clarity certain uses are explicitly prohibited in each and every zoning district as more fully set forth in Section 182-17-A(A) hereof."

**C.** Section 182-5(A) of the Existing Zoning Law, and the introductory sentence of 182-5(B) of the Existing Zoning Law (titled 'Definitions; word usage. '), are hereby amended so as to delete the present text thereof (respectively beginning "Except where specifically defined ..." and "The following terms are specifically ...") in the entirety, and to substitute therefor the following text:

"Except where specifically defined or otherwise specifically provided herein, all words used in this Law shall carry their customary dictionary meanings. For purposes hereof, certain terms and words shall be interpreted as follows: words used in the present tense shall include the future; the plural usage includes the singular, and the singular the plural; the word "shall" is mandatory; the word "may" is permissive; the word "building" includes the word "structure," and both "building" and "structure" include any part thereof; the word "lot" includes the words "plot" and "parcel"; and the words "occupied" and "used" shall be interpreted as though followed by the words "or intended, arranged, or designed to be used or occupied." Where the precise meaning of a word is in doubt by any board or official, the Zoning Board of Appeals shall make a determination in accordance with the purpose and intent of this Law and the Comprehensive Plan.

**B.** For purposes of this Law, unless otherwise specifically provided the following terms and words shall have the meanings set forth below:"

**D.** Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to add the following text as the (new) final sentence of the definition of "ACCESSORY USE", to be inserted immediately prior to the definition of "ADMINISTRATIVE OFFICE":

"Under no circumstances shall any Explicitly Prohibited Use qualify as an accessory use."

**E.** Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to add the following text as the (new) final sentence of the definition of "AGRICULTURAL ACCESSORY USE", to be inserted immediately prior to the definition of "AGRICULTURAL BASED BUSINESS":

"Under no circumstances shall any Explicitly Prohibited Use qualify as an agricultural accessory use."

F. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following definition of "BELOW-REGULATORY CONCERN" therein, said definition to be inserted immediately after the definition of "BED AND BREAKFAST" and immediately before the present definition of "BOARDING HOUSE":

"BELOW-REGULATORY CONCERN -- Radioactive material in a quantity or of a level that is distinguishable from background (as that phrase is defined at 10 CFR §20.1003), but which is below the regulation threshold established by any regulatory agency otherwise having jurisdiction over such material in the Town."

G. [Intentionally omitted.]

H. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following text regarding the term "COMMERCIAL EXCAVATION" therein, said text to be inserted immediately after the definition of "COMMERCIAL COMMUNICATION TOWER" and immediately before the definition of "COMMUNITY CENTER":

"COMMERCIAL EXCAVATION -- Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the term "commercial excavation," or any variation thereof, be construed to mean, be, include, or authorize within the Town any Natural Gas and/or Petroleum Extraction Activities or any other Explicitly Prohibited Use."

I. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following definition of "COMPREHENSIVE PLAN" therein, said definition to be inserted immediately after the definition of "COMMUNITY RESIDENCE" and immediately before the definition of "CONTRACTOR'S YARD":

"COMPREHENSIVE PLAN -- any document, styled comprehensive or master plan or otherwise, adopted by the Town Board for the protection, enhancement, growth, and development of the Town, immediate as well as long-range, specifically pursuant to § 272-a of the NYS Town Law, together with all other materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material, adopted by the Town Board, that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the protection, enhancement, growth and development of the Town."

J. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to add the following text as the (new) second sentence of the definition of "DISPOSAL TRANSFER STATION", to be inserted immediately prior to the definition of "DISTRIBUTION CENTER":

"Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the term "disposal transfer station" or any variation thereof contained in

this Law, be construed to mean, be, include, or authorize within the Town a Land Application Facility, a Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility, a Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump, or any other Explicitly Prohibited Use."

**K.** Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following text regarding the term "DUMP AND DUMPING" therein, said text to be inserted immediately after the definition of "DRIVE-IN SERVICE" and immediately before the definition of "DWELLING":

"DUMP AND DUMPING -- Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the term "dump," "dumping," or any variation thereof contained in this Law, be construed to mean, be, include, or authorize within the Town a Land Application Facility, a Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility, a Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump, or any other Explicitly Prohibited Use."

**L.** Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following definition of "EXPLICITLY PROHIBITED USES" therein, said definition to be inserted immediately after the definition of "EDUCATIONAL INSTITUTION, PRIVATE" and immediately before the definition of "FAMILY":

"EXPLICITLY PROHIBITED USE(S) -- Shall mean and be the Explicitly Prohibited Uses defined and described in Section 182-17-A(A) of this Law."

**M.** Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following text regarding the terms "INDUSTRIAL/INDUSTRIAL USES/INDUSTRY" therein, said text to be inserted immediately after the definition of "HOTEL/MOTEL" and immediately before the definition of "INDUSTRIAL PARK":

"INDUSTRIAL/INDUSTRIAL USES/INDUSTRY -- Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms "industrial," "industrial uses," "industry," "industry, heavy," or any variation thereof contained in this Law, be construed to mean, be, include, or authorize within the Town Natural Gas and/or Petroleum Exploration Activities, Natural Gas and/or Petroleum Extraction Activities, a Land Application Facility, a Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility, a Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump, or any other Explicitly Prohibited Use."

**N.** Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following definition of "INJECTION WELL" therein, said text to be inserted immediately after the definition of "INDUSTRIAL PARK" and immediately before the present definition of "JUNK":

**"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 of the hole, through which fluids (which may or may not include semi-solids) are injected into the subsurface and less than ninety (90) percent of such fluids return to the surface within a period of ninety (90) days."**

**O. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to add the following text as the (new) second sentence of the definition of "JUNK", to be inserted immediately prior to the definition of "JUNKYARD":**

**"Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the term "junk" or any variation thereof contained in this Law, be construed to mean, be, include, or authorize within the Town a Land Application Facility, a Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility, a Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump, or any other Explicitly Prohibited Use."**

**P. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following definition of "LAND APPLICATION FACILITY" therein, said text to be inserted immediately after the definition of "KENNEL" and immediately before the definition of "LANDFILL, SANITARY":**

**"LAND APPLICATION FACILITY -- A site where any Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes are applied to the soil surface or injected into the upper layer of the soil."**

**Q. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to add the following text as the (new) second sentence of the definition of "LANDFILL, SANITARY", to be inserted immediately prior to the definition of "LOT":**

**"Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the term "Landfill, Sanitary" or any variation thereof contained in this Law, be construed to mean, be, include, or authorize within the Town a Land Application Facility, a Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility, a Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump, or any other Explicitly Prohibited Use."**

**R. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following text regarding the terms "MINERAL DEPOSITS; NATURAL MINERAL DEPOSITS" therein, said text to be inserted immediately after the definition of "MANUFACTURING" and immediately before the definition of "MOBILE HOME":**

**"MINERAL DEPOSITS; NATURAL MINERAL DEPOSITS -- In no event shall 'mineral deposits,' 'natural mineral deposits,' or any variation thereof be construed to mean, be,**

or include natural gas or any component thereof."

S. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following definitions of (i) "NATURAL GAS," (ii) "NATURAL GAS AND/OR PETROLEUM EXPLORATION ACTIVITIES," (iii) "NATURAL GAS AND/OR PETROLEUM EXTRACTION ACTIVITIES," (iv) "NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES," (v) "NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES DISPOSAL/STORAGE FACILITY," (vi) "NATURAL GAS AND/OR PETROLEUM EXTRACTION, EXPLORATION OR PRODUCTION WASTES DUMP," (vii) "NATURAL GAS COMPRESSION FACILITY," and (viii) "NATURAL GAS PROCESSING FACILITY" therein, said definitions to be respectively inserted immediately after the definition of "MOTOR VEHICLE SALES" and immediately before the definition of "NYS UNIFORM CODE":

"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 EXPLORATION, EXTRACTION 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," or "toxic," and whether or not such substances are generally characterized as waste: (a) natural gas or petroleum drilling fluids; (b) natural gas or petroleum exploration, drilling, production or processing wastes; (c) natural gas or petroleum drilling treatment wastes (such as oils, frac fluids, produced water, brine, flowback, sediment and/or any other liquid or semi-liquid material); (d) 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; (e) soil contaminated in the drilling, transportation, processing or refining of natural gas or petroleum; (f) drill cuttings from natural gas or petroleum wells; or (g) any other wastes 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 definition of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes does not include (i) recognizable and non-recognizable food wastes, (ii) liquid (human) septic tank waste, or (iii) animal manure (liquid or otherwise) or other waste generated by Agriculture Use.

**NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION 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 EXPLORATION, EXTRACTION 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 COMPRESSION FACILITY** -- A facility constructed or operated to raise the pressure of natural gas in connection with its extraction, processing, or storage, or its delivery into or out of the transmission pipeline system; the term shall not include the transmission pipeline itself; 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 CO<sub>2</sub> separated from natural gas streams."

**T. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to add the following text as the (new) second sentence of the definition of "QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING", to be inserted immediately prior to the definition of "RECREATION, INDOOR":**

"Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms "Quarry, Sand Pit, Gravel Pit, Topsoil Stripping" or any variation thereof contained in this Law be construed to mean, be, include, or authorize within the Town, Natural Gas and/or Petroleum Exploration Activities, Natural Gas and/or

Petroleum Extraction Activities, a Land Application Facility, or any other Explicitly Prohibited Use.”

U. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following definitions of (i) “RADIATION”, and (ii) “RADIOACTIVE MATERIAL” therein, said definitions to be respectively inserted immediately after the definition of “QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING” and immediately before the present definition of “RECREATION, INDOOR”:

“RADIATION -- The spontaneous emission of particles (alpha, beta, neutrons) or photons (gamma) from the nucleus of unstable atoms as a result of radioactive decay.

RADIOACTIVE MATERIAL-- Material in any form that emits radiation. This definition specifically includes NORM (naturally occurring radioactive material), but only if such naturally occurring material has been moved from its naturally occurring location through a mechanical or other man-made process. All 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.”

V. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to add the following text as the (new) fourth (and final) sentence of the definition of “SOUND AGRICULTURAL PRACTICE”, to be inserted immediately prior to the definition of “STABLING OF FARM ANIMALS”:

“Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the term “Sound Agricultural Practice” or any variation thereof contained in this Law be construed to mean, be, include, or authorize within the Town a Land Application Facility or any other Explicitly Prohibited Use.”

W. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following definition of “SUBSURFACE” therein, said text to be inserted immediately after the definition of “STRUCTURE” and immediately before the present definition of “SWIMMING POOL”:

“SUBSURFACE -- Below the surface of the earth, or of a body of water, as the context may require.”

X. Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following definitions of (i) “UNDERGROUND INJECTION,” and (ii) “UNDERGROUND NATURAL GAS STORAGE” therein, said definitions to be respectively inserted immediately after the definition of “TRUCK TERMINAL” and immediately before the definition of “USE”:

“UNDERGROUND INJECTION -- Subsurface emplacement of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes, including emplacement 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, whether for the purpose of load balancing the production of natural gas or for any other reason, including without limitation short-term, long-term, or intermittent storage for product quality, processing, or transportation purposes, or because of market conditions. Without limitation, this term includes compression and dehydration facilities."

**Y.** Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to delete the term "UTILITY, PUBLIC" and accompanying definition in the entirety, and to substitute therefor the following text:"

"UTILITY; UTILITY PUBLIC; PUBLIC UTILITY FACILITY, ETC., -- An entity which operates as a monopoly, and whose rates charged to customers are established by a utility commission. A public utility station, structure, or use is a facility, structure, or use which is operated by a public utility, and which provides electric, gas, steam, CATV, telephone or other communication service, water or sewerage directly to the general public. In no event shall 'Public Utility,' 'Public Utility Facility,' 'Utility,' or any variation thereof be construed to mean, be, include, or authorize within the Town a Natural Gas Compression Facility, Natural Gas Processing Facility, or any other Explicitly Prohibited Use."

**Z.** Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following text regarding the terms "UTILITIES, PRIVATE" therein, said text to be inserted immediately after the (new) definition of "UTILITY; UTILITY PUBLIC; PUBLIC UTILITY FACILITY, ETC.," and immediately before the definition of "WAREHOUSE":

"UTILITIES, PRIVATE -- In no event shall 'Private Utility,' 'Utility, Private' or any variation thereof be construed to mean, be, include, or authorize within the Town a Natural Gas Compression Facility, Natural Gas Processing Facility, or any other Explicitly Prohibited Use."

**AA.** Section 182-5(B) of the Existing Zoning Law is hereby further amended, so as to insert the following definitions of (i) "VARIANCE", (ii) "VARIANCE, AREA", and (iii) "VARIANCE, USE" therein, said definitions to be respectively inserted immediately after the (newly inserted) text regarding the term "UTILITIES, PRIVATE" and immediately before the definition of "WAREHOUSE":

"VARIANCE -- An area variance or a use variance, as the context may admit.

VARIANCE, AREA -- The authorization by the Zoning Board of Appeals for the use of land in a manner that is not allowed by the dimensional requirements of the applicable zoning regulations.

VARIANCE, USE -- The authorization by the Board of Appeals for the use of

land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.”

## **2.2. Amendment to Article II of the Existing Zoning Law**

Section 182-7 of the of the Existing Zoning Law (“Zoning Map established.”) is hereby amended so as to delete the present text thereof (beginning “Said zoning districts ...”) in the entirety, and to substitute the following text therefor:

“The boundaries of the zoning districts are shown on the map entitled “Zoning Map of the Town of Stafford, NY”, which is hereby declared to be a part of this Law. The Zoning Map shall be kept on file in the office of the Town Clerk. Unofficial reductions of this map shall be for reference purposes only. Changes may be made in district boundaries only by a zoning amendment adopted by the Town Board. Any such changes shall be noted by the Town Clerk on the Zoning Map promptly after the Town Board adopts such an amendment. In the event of a conflict between the Zoning Map in the Town Clerk’s office and the specific Local Law adopting a Zoning Map amendment, the specific Local Law shall be the controlling authority as to the current zoning status of lands, structures and uses in the Town.”

## **2.3. Amendments to Article III of the Existing Zoning Law**

**A.** Section 182-11 of the of the Existing Zoning Law is hereby amended: (i) so as to replace the present title of such Section (“General regulations.”) with the words “Any use not specifically articulated as allowed is prohibited.”; and (ii) so as to delete the present text thereof (beginning “The provisions of this Local Law ...”) in the entirety, and to substitute the following text therefor:

“Any use not specifically set forth as a permitted use (as of right, accessory, or upon special permit, as the context may admit) in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district. Without limiting the generality of the foregoing, for purposes of clarity certain uses are explicitly prohibited in each and every zoning district as more fully set forth in Section 182-17-A(A) hereof.”

**B.** Section 182-14 of the Existing Zoning Law is hereby amended: (i) so as to replace the present title of such Section (“Nonconforming uses, structures and lots”) with the words “Nonconforming uses, structures and lots; pre-existing, non-conforming natural gas and/or petroleum extraction activities”; (ii) so as to insert the words “Subject always to the provisions of Paragraph D. of this Section 182-14” at the beginning of the second sentence of text (‘A nonconforming structure may be enlarged ...’) of Section 182-14(B); (iii) so as to insert the words “Subject always to the provisions of Paragraph D. of this Section 182-14” immediately after the heading of Paragraph C. (‘Nonconforming uses’), and prior to Subparagraph (1) of said Paragraph C.<sup>1</sup>; and (iv) so as to insert the following new Paragraph D.,

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<sup>1</sup> The intent is to make Section 182-14(B), and all subparagraphs of Section 182-14(C), subject to the newly inserted Paragraph D.

said new Paragraph D. to be inserted immediately following the text of Subparagraph C(5). of Section 182-14, and immediately prior to Section 182-15 of the Existing Zoning Law:

"D. Pre-existing, non-conforming natural gas and/or petroleum extraction activities.

Notwithstanding any provision of this chapter to the contrary, any natural gas and/or petroleum extraction activities that are being conducted in the Town as of the effective date of Local Law 1 of 2015 shall be subject to the following:

1.a. If, as of the effective date of Local Law 1 of 2015 a natural gas well located within the Town is producing useable quantities of natural gas which are being consumed by the owner of such well, then and only then such well shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of Subparagraphs 2. and 3. of this Paragraph D.

b. Natural gas and/or petroleum extraction activities that are being conducted in the Town as of the effective date of Local Law 1 of 2015 and which do not qualify for treatment under the preceding Subparagraph 1.a. of this Paragraph D. shall not be grandfathered (or be permitted to continue or deemed lawful pre-existing uses).

2. Upon the depletion, closing, or reclamation of any well which is allowed to remain in operation after the effective date of this Local Law by virtue of Subparagraph 1.a. of this Paragraph D., or upon any other substantive cessation of natural gas and/or petroleum extraction activities for a period of more than twelve (12) months, then and in either of such events the pre-existing and/or non-conforming use status (and any related 'grandfathering rights') of or relating to such Activity shall terminate.

3. Notwithstanding any provision hereof to the contrary, the pre-existing, non-conforming status conferred and recognized by Subparagraph 1. a. of this Paragraph D. is not intended, and shall not be construed, to authorize or grandfather any natural gas and/or petroleum extraction activities extending *beyond* those existing as of the effective date of Local Law 1 of 2015, and any expansion or attempted or purported expansion of a grandfathered well, whether as to its production, depth, horizon(s) or otherwise, shall not be grandfathered under Subparagraph 1.a. of this Paragraph D. "

C. Section 182-17 of the of the Existing Zoning Law is hereby amended: (i) so as to replace the present title of such Section ("Uses prohibited.") with the words "Any use not specifically articulated as allowed is prohibited"; and (ii) so as to delete the present text thereof (beginning "Uses which are not specifically...") in the entirety, and to substitute the following text therefor:

"Any use not specifically set forth as a permitted use (as of right, accessory, or upon special permit, as the context may admit) in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a

permitted use in said other district. Without limiting the generality of the foregoing, for purposes of clarity certain uses are explicitly prohibited in each and every zoning district as more fully set forth in Section 182-17-A(A) hereof."

**D.** The Existing Zoning Law is hereby amended so as to add the following new Section 182-17-A thereto, the new Section 182-17-A to be inserted immediately following the text of Section 182-17, and immediately prior to present Section 182-18 ('One- and Two-family dwellings on individual lots.');

"Explicitly prohibited uses; Prohibition against natural gas and/or petroleum extraction, exploration or production wastes."

**A.** Explicitly prohibited uses.

Without limiting the generality of the statements elsewhere in this Law that any use not specifically set forth as a permitted use (as of right, accessory, or upon special permit, as the context may admit) in any particular zoning district shall be expressly prohibited in that district, the following uses and activities are hereby expressly and explicitly prohibited in each and every zoning district within the Town, and no building or structure shall be created, altered or erected, and no body of water, land or building thereon shall be used, for any of such uses or activities:

- (i) Land Application Facility;
- (ii) Natural Gas And/Or Petroleum Exploration Activities;
- (iii) Natural Gas And/Or Petroleum Extraction Activities;
- (iv) Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility;
- (v) Natural Gas And/Or Petroleum Exploration, Extraction, Or Production Wastes Dump;
- (vi) Natural Gas Compression Facility;
- (vii) Natural Gas Processing Facility;
- (viii) Underground Injection; and
- (ix) Underground Natural Gas Storage.

Any condition caused or permitted to exist in violation of this Paragraph A. is a threat to public health, safety and welfare, and is hereby declared and deemed to be a nuisance. Collectively the above expressly prohibited uses may be referred to in this law as "Explicitly prohibited uses," any one of the above expressly prohibited uses may

be referred to in this law as an "Explicitly prohibited use," and any combination of more than one such use may also be referred to as "Explicitly prohibited uses."

B. Prohibition against natural gas and/or petroleum exploration, extraction or production wastes.

The Town of Stafford hereby exercises its authority and right under NY ECL § 27-0711 to adopt a Local Law that is consistent with the Environmental Conservation Law Article 27, such consistency demonstrated by the fact that this Local Law complies "with at least the minimum applicable requirements" set forth in such statute, and the rules and regulations promulgated pursuant to said Article 27.

It shall be unlawful for any person to produce, store, inject, discard, discharge, dispose, release, or maintain, or to suffer, cause or permit to be produced, stored, injected, discarded, discharged, disposed, released, or maintained, anywhere within the Town, any Natural Gas and/or Petroleum Exploration, Extraction or Production Wastes.

C. No application to customary local distribution lines, etc.

The prohibitions set forth above in Paragraph A. of this Section 182-17-A are not intended, and shall not be construed, to:

- (1) prevent or prohibit the right to use roadways in commerce or otherwise for travel;
- (2) 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
- (3) 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 Agricultural, residential, business, commercial, and other uses within the Town."

E. Section 182-24 of the Existing Zoning Law is hereby amended so as to add the following text thereto, said additional text to be inserted at the end of said Section's (present) introductory sentence beginning "The purpose of the planned unit development ..."):

"; provided, however, that notwithstanding any provision hereof to the contrary and in any event, under no circumstances shall any Explicitly Prohibited Uses be conducted on or from any planned unit development."

F. Section 182-24 of the Existing Zoning Law is hereby further amended, so as to add the following text at the end of the first sentence of Subparagraph (B)(2)(d) ("Town Board review and approval."), (which sentence begins "Upon receipt of the Planning Board's recommendation ..."):

"; provided, however, that notwithstanding any provision hereof to the contrary and in any event, under no circumstances may any explicitly prohibited uses be authorized

or allowed to be conducted on or from any planned unit development.”

#### **2.4. 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.

#### **2.5. Effective Date of this Local Law**

This Local Law shall be effective upon filing with the office of the Secretary of State.

**APPENDIX A**  
**ATTACHED TO AND FORMING A PART OF**  
**TOWN OF STAFFORD LOCAL LAW NO. 1 of the YEAR 2015**

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 Stafford 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)(ii)(a)(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. It is further 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 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 herein-identified land uses, such as negative impacts on roadways, traffic congestion, and other deleterious impacts upon a community. This Law is not intended to regulate the operational processes of any business. This Local Law is a law of general applicability and is intended to promote the interests of the community as a whole.

As is consistent with law (including, without limitation NY ECL § 27-0711) this Local Law intends to, and hereby does, regulate certain land uses so as to promote the health and welfare of the citizens of the Town by, among other things, prohibiting the dumping, discharging, injection and disposal of materials herein defined as "Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes" on lands and in bodies of water within the Town. Further, this Local Law is intended and declared to protect drinking water supplies, and is intended and declared to supplement and enhance, but not limit or impinge upon, the Safe Drinking Water Act or the Underground Injection Control programs administered by the Environmental Protection Agency. This Local Law is also intended and declared to impose conditions and restrictions that are directly related and incidental to certain uses of property, with such conditions and restrictions being aimed at minimizing or precluding adverse impacts in and upon the Town that could result from certain uses of property that could pose a unique risk of adverse impacts to, and effects upon, the comfort, peace, enjoyment, health and safety of residents, other property owners, and their property.

## **Section 2. Findings of Fact.**

1. Stafford is a community in Genesee County that takes great pride in and assigns great value to its rural residential character, small-town atmosphere, high-quality agricultural land, and scenic and other natural resources.
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. Certain of the Explicitly Prohibited Uses defined and described in this Local Law have the potential to damage surface and ground water resources, in the event of (by way of example) human error, power outages, flooding or other natural disasters, or engineered materials and structures experiencing stresses beyond those for which they were designed. 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.
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 agricultural, scenic, recreational, and other natural resources of the Town is important for both a healthy environment and vibrant economy. Aesthetic issues are real and evoke strong reactions from people. They also deeply affect the way people feel about a place, and affect whether businesses will want to locate within, or people will want to live in and visit, a place.
5. Allowing certain of the Explicitly Prohibited Uses defined and described in the Local Law could 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 areas or communities in which such activities 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, the fragmentation of natural communities and valuable wildlife and flora corridors, decreased recreational opportunities, and damage to tourism industries.
6. If one or more of the Explicitly Prohibited Uses defined and described in 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. Certain of the Explicitly Prohibited Uses defined and described in this Local Law

typically involve a large volume of heavy vehicles and accidents involving heavy vehicles have greater potential for death or serious injuries and property damages than those involving smaller vehicles. Further, such accidents are more likely to occur on roads (such as many roads in the Town) that have sharp corners, narrow lanes, short sight lines, and overall limited roadway geometries. Thus, an increased volume of heavy vehicular traffic may cause, contribute to, or create unsafe conditions for the traveling public and thus place a strain on emergency responders. Increased heavy vehicular traffic also tends to increase air pollution and noise levels, and decrease the quality of life and property values for those living nearby. 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 typically accompany many of the Explicitly Prohibited Uses defined and described in this Local Law.

7. If one or more of the Explicitly Prohibited Uses defined and described in the Local Law are conducted within the Town, the air pollution, dust, noise, vibrations, 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 public health.
8. If one or more of the Explicitly Prohibited Uses defined and described in the Local Law are conducted within the Town, noise, vibrations, seismic, subterranean, lateral and subjacent support impacts, and light pollution typically caused by such activities, could be hazardous or inconvenient to the inhabitants of the Town. Noise, traffic congestion, nighttime lighting, vibrations, and seismic and other impacts to subterranean surface support, can have negative effects on human health and wildlife.
9. The creation, generation, keeping, storage or disposal of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined in the Local Law) within the Town could have a negative impact on the public health, safety and welfare of the inhabitants of the Town.
10. The high costs associated with the disposal of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined in 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.
11. Evaluation and determination of whether the Explicitly Prohibited Uses defined and described in this Local Law are appropriate for the Town is a legitimate goal of land use policy and laws; indeed, the exclusion of specified industrial uses is a legitimate and judicially recognized and supported 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. 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, held as follows:

*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.

**Section 3. Purposes.** This Local Law is enacted so as to take proactive steps to protect and preserve the quality of the Town's air, water, and other resources and assets, and to protect and promote the health, safety, and welfare of the Town and its present and future residents. Without limiting the generality of the foregoing, this Local Law is intended and declared by the Town Board to:

- a. promote the purposes of planning and land use regulation by, among other things, preserving the roads and protecting limited and related fire, police, and other emergency response services in the Town;
- b. promote the health, safety and welfare of the Town, its present and future inhabitants, by preventing adverse public nuisances and/or land use impacts and effects that could result if the Explicitly Prohibited Uses defined and described in this Local Law were allowed to be conducted within the Town;
- c. protect the Town's priceless and unique character, the preservation of which is of significant value to the inhabitants of the Town and the tourists who visit here, by protecting it from adverse public nuisances and/or land use impacts and effects that could result if the Explicitly Prohibited Uses defined and described in this Local Law were allowed to be conducted within the Town; and
- d. protect the Town's irreplaceable historic, scenic, and natural resources, and the Town's water and air quality, by protecting each and all of the same from adverse public nuisances and/or land use impacts and effects that could result if the Explicitly Prohibited Uses defined and described in this Local Law were allowed to be conducted within the Town.

--- END ---

(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. 1 of 2015 of the (County)(City)(Town)(Village) of Stafford was duly passed by the Town Board on September 14 2015, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

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

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 \_\_\_\_\_ 20\_\_\_\_, 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.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

**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 \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

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 \_\_\_\_\_ 20\_\_\_\_, 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.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

\* 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 20\_\_\_\_ of the City 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.

Walter Krushenski  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 9/14/15

(Seal)