

Local Law No. 2 of 2012

A local law establishing a one year moratorium on applications, approvals and/or drilling for natural gas, including but not limited to the process known as “high volume hydraulic fracturing” in the Town of Westerlo.

Local Law No. 2 of 2012, entitled “Gas Drilling Moratorium Law of 2012 of the Town of Westerlo” to establish a one year moratorium on applications, approvals or drilling for natural gas, including but not limited to the process known as “high volume hydraulic fracturing” in the Town of Westerlo.

Section 1. Title

This law shall be known as the Gas Drilling Moratorium Law of 2012 of the Town of Westerlo.

Section 2. Purpose and Intent

The Town Board of the Town of Westerlo (hereinafter referred to as “the Board”) is aware of the current controversy surrounding the process of high volume hydraulic fracturing (hereinafter referred to as “hydrofracking”). The Board is familiar with the controversies pertaining to the impact to the town’s water supply and roads, impact to the safety of residents due to the increased truck traffic, affect on property values and community character, and the implications to the residents’ quality of life. The Board is also aware that the State of New York has been engaged in an in depth evaluation of the hydrofracking process and its effect on the environment, and that no final determination has been made by the State as to how this process will be regulated. The Board is further aware that the current State ban on hydrofracking may expire before any final determination can be made regarding the impacts of hydrofracking on local communities.

In light of the positions in favor of and against the hydrofracking process, the Board has entertained discussions at its public meetings, has hosted presentations by individuals uniquely involved in the evaluation of the merits of hydrofracking and has invited information from both opponents and proponents of the hydrofracking process. The Board has also developed a citizens’ committee, chaired by a member of the Board, to assemble factual and scientific information regarding the hydrofracking process and all its related activities, and to report to the Board with a recommendation regarding gas drilling and, in particular, hydrofracking. The Board must then determine, after evaluating all of the information before it, whether, and under what circumstances, the process of hydrofracking should be permitted in the Town of Westerlo.

This law is intended to establish a one-year moratorium to temporarily suspend administrative review, approval process and/or drilling activities associated with the production of natural gas on or affecting lands located in the Town of Westerlo in order to provide the Town adequate time to investigate and evaluate the issues involved with

hydrofracking, and, depending on the State's final action, how any State regulation will affect the Town of Westerlo. The period of the moratorium, to wit: one year, provides the Board the anticipated time necessary to reconcile the scientific and engineering information regarding the hydrofracking process, and, if necessary, hire the appropriate professionals to assist the board in deciphering the detailed data. The Board's evaluation is intended to include the effect of increased truck traffic on the roads, the potential for contamination of the Town's water supplies, the potential for the reduction of property values within the Town, and whether the extraction of natural gas through hydrofracking is compatible with the Town's community character. During the period of the moratorium, the Board also intends to make the appropriate changes, if any, to Local Law #1 of 1989, the Zoning Law of the Town of Westerlo, by holding public hearings regarding such proposed changes and performing the necessary environmental reviews.

The moratorium applies to new and pending proposals or activities regarding gas drilling. The moratorium is enacted pursuant to the statutory powers vested in the Town of Westerlo to control land use and to protect the health, safety and welfare of its residents.

Section 3. Enactment

The Town of Westerlo hereby declares a one year moratorium on the application for, approval of or actual drilling for or extraction of natural gas and support activities within any shale deposit located in the Town of Westerlo by the process commonly known as hydrofracking.

Section 4. Authority

This moratorium is enacted by the Board pursuant to its authority to adopt local laws under the New York State Constitution, the New York State Town Law, and the Municipal Home Rule Law.

Section 5. Moratorium Imposed

For the period of one (1) year immediately following the effective date of this local law, there is a moratorium on all applications or activities on or under land that would have as the result the drilling for or extraction of natural gas within the Town of Westerlo from any shale deposit in the Town by the process known as hydrofracking.

This moratorium also applies to any activities with the Town, whether directly or indirectly associated with, that helps to and/or support, exploration, drilling for or extraction of natural gas and its associated support activities.

During the periods in which the moratorium is in effect, no approvals, permits, actions or decisions shall be made or issued by any Board or official of the Town of Westerlo with respect to any such applications for gas drilling. This moratorium shall apply to all such applications, whether pending or received prior to the effective date of this law. No such

applications seeking approvals or permits for any such activities shall be accepted by any Board or official of the Town of Westerlo and no person, company, entity of any kind shall engage in such drilling activities for natural gas while this law remains in effect. Further, no person, corporation or other entity shall undertake any site preparation, including but not limited to clearing, grading, and filling, or construction activities, with respect to any application, proposed land use, subdivision, or development that is subject to this moratorium.

Section 6. Enforcement

This local law shall be enforced by the Code Enforcement Officer of the Town of Westerlo or such other individual(s) as designated by the Board. It shall be the duty of the enforcement individual to advise the Board of all matters pertaining to the enforcement of this local law and to keep all records necessary and appropriate to such enforcement.

Section 7. Violations

Any person, firm, entity or corporation violating any of the provisions of this local law shall be guilty of an offense and upon conviction thereof, shall be subject to civil penalties in the amount of fifty thousand dollars (\$50,000.00) per day plus actual damages for each day such violation exists and/or an action for injunctive or equitable relief.

Section 8. Supersession

To the extent that this local law is inconsistent with any state statute or regulation, it is the intent of this law to supersede such statutes or regulations.

Section 9. Severability of Provisions

Should any section or provision of this local law be declared null, void voidable or invalid, such finding shall not affect the validity of the remaining portions of this local law.

Section 10. Effective date

This Local Law shall take effect immediately upon filing with the New York State Secretary of State's Office.