

A LOCAL LAW IMPOSING A ONE YEAR MORATORIUM ON HORIZONTAL AND DIRECTIONAL GAS DRILLING AND HYDRAULIC FRACTURING

Section 1. TITLE

This Local Law shall be known as the "Moratorium on Horizontal and Directional Gas Drilling and Hydraulic Fracturing"

Section 2. STATEMENT OF LEGISLATIVE INTENT

It is the purpose of this local law to prevent to prevent potentially serious detrimental health and environmental effects posed by the practices of horizontal or directional gas drilling and hydraulic fracturing ("hydrofracking"), which could threaten the Village of Naples through potential contamination of aquifers and fresh water supply, the use of massive quantities of water, the disposal of fracking fluids, the release of chemicals used in the hydrofracking process all of which could result in the degradation of the Village of Naples' significant environmental, natural, and aesthetic resources.

The Board of Trustees of the Village desires to address in a careful manner the possible environmental, economic, and social implications regarding the question of whether hydrofracking or any activities in relation to hydrofracking should be allowed at all within the Village, and if so, under what circumstances.

The Board of Trustees therefore finds that it in order to protect and promote the general health, safety, and welfare of the residents of the Village it is advisable to enact a one year moratorium on the hydrofracking process and all related activities within the limits of the Village of Naples.

Section 3. DEFINITIONS

A. HORIZONTAL OR DIRECTIONAL DRILLING - The practice of digging well, first, down vertically to a depth above the target gas-bearing rock formation, then on a curve so that the hole is drilled horizontally or at an angle within the gas-bearing rock.

B. HYDRAULIC FRACTURING OR HYDRO-FRACKING - The practice of pumping a 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.

C. VILLAGE - The Village of Naples, New York

D. VILLAGE BOARD - The Board of Trustees of the Village of Naples

E. PLANNING BOARD - The Planning Board of the Village of Naples

F. ZONING BOARD OF APPEALS - The Zoning Board of Appeals of the Village of Naples

G. CODE ENFORCEMENT OFFICER - The Code Enforcement Officer of the Village of Naples

Section 4. MORATORIUM

A. The Village Board hereby enacts a moratorium which shall prohibit the review, approval, or creation of any wells, projects, gas storage facilities, transmission lines, or businesses involving the practices of horizontal or directional drilling or hydro-fracking, including facilities for the storage, disposal, or processing of waste materials generated by hydro-fracking anywhere within the Village.

B. This moratorium shall be in effect for a period of one (1) year from the effective date of this Local Law and shall expire one (1) year from said effective date unless renewed, or upon the adoption by the Village Board of a resolution indicating that the Village Board is satisfied that the need for a moratorium no longer exists, whichever shall first occur.

C. This moratorium shall apply to all real property within the Village.

D. That while the moratorium hereby enacted shall be in effect, the Planning Board shall not review any applications for any wells, projects, or businesses involving the practices of horizontal or directional drilling or hydrofracking, including but not limited to gas storage facilities, pumping stations, transmission lines, or facilities for the storage, disposal, or processing of waste materials generated by hydro-fracking, and shall not grant any preliminary or final site plan approval to any property which is intended to have on it any well, project or business involving the processes of horizontal or directional drilling or hydrofracking, including but not limited to gas storage facilities, transmission lines, or facilities for the storage, disposal, or processing of waste materials generated by hydro-fracking.

E. That while the moratorium hereby enacted is in effect, the Code Enforcement Officer shall not issue any building permits or certificates of occupancy for the construction of any well involving the practices of horizontal or directional drilling or hydro-fracking, nor for any other structure related to the practices of horizontal or directional drilling or hydro-fracking, including but not limited to gas storage facilities, pumping stations, transmission lines, or facilities for the storage, disposal, or processing of waste materials generated by hydro-fracking.

F. That while the moratorium hereby enacted is in effect, the Zoning Board of Appeals shall not review any applications for variances or interpretations of the Code of the Village of Naples in connection with the construction of any well involving the practices of horizontal or directional drilling or hydro-fracking, nor for any other structure related to the practices of horizontal or directional drilling or hydro-fracking, including but not limited to gas storage facilities, pumping stations, transmission lines, or facilities for the storage, disposal, or processing of waste materials generated by hydro-fracking.

G. That while the moratorium hereby enacted is in effect, no person, firm or corporation shall begin construction of, or use any part of any property within the Village for any well or project or business involving the practices of horizontal or directional drilling or hydro-fracking, nor for any other structure related to the practices of horizontal or directional drilling or hydro-fracking, including but not limited to gas storage facilities, pumping stations, transmission lines, or facilities for the storage, disposal, or processing of waste materials generated by hydro-fracking.

Section 5. PENALTIES.

Any person, firm, or corporation which shall violate the provisions of this Local Law

shall be subject to the following:

1. A civil penalty in the amount of not less than \$2,000.00 and not more than \$25,000.00 for each violation. Each day's noncompliance with this local law shall constitute a separate and distinct violation, and the civil penalty assessed under this subsection shall double for each violation.

2. Conviction of a misdemeanor after a trial or a plea of guilty.

2. Injunctive relief in favor of the Village to cease any and all such actions which conflict with this Local Law, and if necessary, to remove any construction and improvements which may have been built in violation of this Local Law.

3. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Local Law.

Section 6. VALIDITY.

If any part of this Local Law shall be judge by any court of competent jurisdiction to be invalid, then such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to that portion of this Local law directly involved in the controversy in which said judgment shall have been rendered.

Section 7. SUPERSEDING EFFECT.

Pursuant to section 22 of the Municipal Home Rule Law of the State of New York, the provisions of this Local law shall supersede any inconsistent provision of State or local law.

Section 8. EFFECTIVE DATE.

This Local law shall take effect immediately upon filing with the New York department of State and shall remain in force and effect for a period of one (1) year from the date of such filing, unless sooner terminated as provided by this Local Law.