

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

**SECTION I.                    Title**

This Local Law shall be known as and may be cited as Local Law No. \_\_\_\_ - 2012, of the Town of Richmond. This legislation imposes a building and land use moratorium upon the issuance of permits or any kind or nature when required for the drilling, exploration, development and construction of commercial and industrial high volume hydraulic fracturing for natural gas in all districts in the Town for a period of 12 months.

**SECTION II.                    Legislative Findings**

The Town Board of the Town of Richmond finds and hereby determines that it is facing unprecedented growth and development. Moreover, the preservation of natural fresh water

sources must be maintained. There exists the potential for proposals and projects pertaining to high volume hydraulic fracturing for natural gas within the Town of Richmond for which the current Town Comprehensive Plan and Zoning Ordinance does not adequately address.

The Town further finds and hereby determines that it is the best interests of the residents of the Town of Richmond to temporarily halt and restrict development or expansion as aforesaid for a short period to permit the consideration and adoption of Comprehensive Plan Amendments and a new set of zoning regulations are prepared for the Town of Richmond. Such additional moratorium will permit the Town to complete the development of proper planning methods and to restrict and prevent potential uses which presently do not conform with present zoning and which engenders public debate on such development.

The Town Board has duly or shall authorize and empower a committee to prepare and propose Comprehensive Plan and Zoning Amendments and land use regulations including regulations pertaining to high volume hydraulic fracturing for natural gas and to permit the New York State Department of Environmental Conservation and other state and federal agencies to complete the development of regulations pertaining to such high volume hydraulic fracturing for natural gas as a means to develop the Town on an economically and environmentally sound basis; thus properly providing for the future growth and development of the Town and affording adequacy of facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its citizens. Thereafter, the committee has been or will be charged with the duty and responsibility of reporting its recommendations for affecting such land use regulations to the Town Board. The Town Board does hereby find that pending completion of the necessary surveys, studies, meetings, hearings, and other actions incident to the proper considerations to amending the Town Zoning Ordinance, significant development, drilling, high volume hydraulic fracturing may, in the absence of action by the Town Board, occur which may be inconsistent with the ultimate guidelines and recommendation of the Comprehensive Plan.

The Town Board further finds that further significant development in the Town of Richmond prior to the completion of the revisions and actions which may be necessary for the

proper consideration and formulation of revisions to existing regulations and the adoption of appropriate zoning laws and any revisions and amendments to other existing land use laws, ordinances and regulations may substantially reduce the effectiveness of such zoning laws, and other land use laws, ordinances and regulations adopted, result in a potentially negative environmental impact upon the Town's valuable natural resources and interfere with the ability of the Town Board to properly plan for growth and development and its ability to afford adequate facilities for the distribution of public services, comfort, convenience, public health and safety, and the general welfare of the citizenry of the Town of Richmond. It is the intention of the Town Board to protect the Town and preserve its integrity and valuable resources by adopting reasonable interim development regulations during the preparation and consideration of the aforementioned Plan, zoning laws, or ordinances and protective changes in the other existing land use laws, ordinances, and regulations, which protective changes in the other existing land use laws, ordinances and regulations, which will thereby protect the public interest and welfare until such have been implemented. The Town Board finds that the within interim law is the most appropriate means to accomplish the objectives set forth in this statement of legislative intent pending completion of the necessary surveys, studies, meetings, hearings, and other actions incident to the proper consideration of a comprehensive zoning plan and the development of a comprehensive plan for the future development of the Town of Richmond.

The Town Board of the Town of Richmond further finds that a review and appeals procedure is appropriate in order to avoid or minimize any inequities or undue hardships which may derive from the strict application of this Local Law.

### **SECTION III.           Moratorium**

For a period of 12 months from the date of the adoption of this Local Law, the following interim development restrictions shall apply, and no applications for permits of any kind or nature shall be granted as it would apply to the following:

- A.       High volume hydraulic fracturing for natural gas.

Said interim moratorium shall restrict and prohibit development of the aforementioned uses in all districts within the Town of Richmond.

During the period of the moratorium, the Planning Board and Code Enforcement Officer of the Town of Richmond shall not review, grant approval, or issue permits of any kind or nature to such developments and uses prohibited by this Local Law.

The above-stated regulations shall not apply to the following development or construction:

A. The continuance, maintenance, repair, replacement, modification, or alteration of existing commercial or industrial natural gas extraction facilities ("Facilities") that do not use the so-called high volume hydraulic fracturing process for natural gas extraction; provided, however, that such does not constitute a new use of such existing Facilities;

B. Additions, alterations, rebuilding, or reconstruction of existing Facilities;

C. Certificate of Occupancy for any and all construction performed pursuant to building permits issued prior to the effective date of this Local Law;

D. Building permits and Certificates of Occupancy for Facilities on lots of record or lots within subdivision plats which have received final approval from the Planning Board prior to the effective date of this Local Law;

E. As used in this Section, the term "new use" shall mean and refer to any change in the type of use of Facility (e.g. to high volume hydraulic fracturing)

or any modification or expansion of any use previously approved or which constitutes a non-conforming use prior to the enactment of this Local Law; and

F. The Town Board reserves the right to direct the Code Enforcement Officer to revoke or rescind any building permits or Certificates of Occupancy issued in violation of this Local Law.

#### **SECTION IV. Appeal Provisions/Variances**

The Town Board shall have the power to vary or modify the application of any provision of this Local Law upon its determination, in its absolute legislative discretion, after Public Hearing on Notice, that this Local Law would impose extraordinary hardship upon a landowner or developer, and that a variance from this legislation will not adversely affect the health, safety and general welfare of the Town of Richmond. Any request for an exception or variance shall be filed with the Town Supervisor or his designee and shall include a fee of One Hundred and 00/100 Dollars (\$100.00) for the processing of such application. All such applications shall be promptly referred to the Planning Board for Hearing and recommendation, and shall thereafter be remanded to the Town Board for a Public Hearing and final decision.

#### **SECTION V. Penalties**

Any person, firm, entity, or corporation who/which shall construct, erect, enlarge or alter any building or structure in violation of the provisions of this Local Law shall be subject to the following:

A. A penalty in the amount of One Hundred and 00/100 Dollars (\$100.00)

for each day the violation shall exist; and

B. Furthermore, the Town of Richmond shall also be entitled to seek injunctive relief in favor of the Town for the purpose of ceasing activities or operations which are in conflict with this Local Law.

**SECTION VI. Validity and Severability**

Should any word, section, clause, paragraph, sentence, part or provision of this Local Law be declared invalid by a Court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

**SECTION VII. Repeal, amendment and Supersession of Other Laws**

This Local Law hereby repeals all other Ordinances or Local Laws of the Town of Richmond in conflict with the provisions of this Local Law and are hereby superseded or repealed to the extent necessary to give this Local Law full force and affect during its effective period. Without limiting the foregoing, this Local Law supersedes the provisions of Section 276 of the Town Law of the State of New York, including, but not limited to, Subdivision 4 contained therein, as well as any Local Law, Ordinance, or regulation inconsistent with this Local Law, specifically with regard to default approval provisions.

**SECTION VIII. Effective Date**

This Local Law, after its adoption by the Town Board of the Town of Richmond, shall take effect upon its filing with the Office of the Secretary of State of the State of New York and shall remain in effect for a period of twelve (12) months.