

Local Law #2 of 2012 - Exploration for or Extraction of Natural Gas

Town of Rochester Local Law # 2 of 2012

Exploration for or Extraction of Natural Gas

I. Title

This Local Law shall be known as the “Exploration for or Extraction of Natural Gas Local Law”, adopted as the Town of Rochester Local Law # 2 of 2012.

II. Enactment

This Local Law is adopted and enacted pursuant to the authority and power granted by the Constitution and Laws of the State of New York including without limitation the Municipal Home Rule Law of the State of New York, Articles 2 and 3, and Article 2 of the New York State Statute of Local Governments, and pursuant to the authority of Section 265 of the New York State Town Law.

III. Purpose

- A. It is the purpose of this Local Law to promote the protection, order, conduct, safety, health, and welfare of the residents of the Town of Rochester and the lands that lie within the Town’s borders.
- B. It is the purpose of this Local Law to protect and enhance the Town’s physical and visual environment.
- C. It is the purpose of this law to respond to the legitimate concerns of the citizens of the Town about the potential for Exploration for and/or Extraction of Natural Gas in the Town and about the potential for major portions of the Town and its citizens to be adversely impacted by such Industry.
- D. It is the purpose of this Local Law to uphold and implement the Town of Rochester Comprehensive Plan, as currently adopted.
- E. The Town Board, in adopting an updated Comprehensive Plan in November of 2006, established the following vision statement:”

“It seeks to establish a reasonable balance between important goals of the community and the rights of individual property owners so that:

- Growth can take place without compromising the quantity and quality of drinking water available to all Town residents.
- New development is sited and designed to minimize the amount of taxes that must be raised town-wide to provide new facilities and services to support that development.
- Rochester may take advantage of changes in the national and regional economy to build the Town’s economic base by encouraging small business, tourism, arts, agriculture and historic preservation. (NOTE: for the purposes of this Plan, a small business is an enterprise employing 25 or fewer persons.)
- To the greatest extent possible, the Town remains an affordable place to live.

- Development complements and strengthens Rochester’s small town quality and character.
- Growth occurs in a way that minimizes loss of open spaces or scenic views.

F. Further, the Town Board, in adopting by Local Law an update to the Zoning Law in 2009 declared the following:

“It is the legislative intent of this Chapter to provide standards and procedures to guide land use and new development. This Law is specifically intended to implement the Town of Rochester Comprehensive Plan, including but not limited to the following objectives:”

- A. Directing growth by encouraging concentrations of new residential, non-residential and mixed-use developments in areas that currently are or that can be conveniently served by roads, utilities, schools and other facilities.
- B. Directing large-scale or intensive development to areas with adequate infrastructure.
- C. Broadening housing opportunities in the Town of Rochester to provide housing for all populations including young families, senior citizens, working families and households, single adults and others.
- D. Offering incentives to encourage better site design and use of energy efficient principles in new development projects.
- E. Protecting historic resources.
- F. Protecting the quantity and quality of the water supply by strengthening measures to prevent groundwater contamination, assuring protection of surface waters, preserving wetlands and encouraging the provision of sewage collection and treatment to hamlets.
- G. Protecting important natural resources identified in the Town’s Natural Resources Inventory.
- H. Minimizing disturbance to wildlife and vegetation from the effects of new development.
- I. Regulating flood plain development.
- J. Providing for continued commercial and industrial growth.
- K. Allowing for home-based occupations.
- L. Preserving productive farmlands as a viable industry resource and means for maintaining open space.
- M. Encouraging agro-tourism activities by farms and otherwise promoting and developing agriculture.
- N. Protecting the Catskills and the Shawangunk Ridge by limiting clearing and intensity of use so as to maintain existing character.
- O. Creating guidelines for new development and its landscaping that maintain a high-quality built environment while preserving and using natural beauty wherever possible.
- P. Recognizing historical neighborhoods and preserving small-scale mixed use development patterns in these areas.
- Q. Preventing intrusion of incompatible uses in residential areas so as to ensure privacy for residents and their freedom from nuisances.

- R. Ensuring signage in Town is both attractive and functional.
 - S. Reducing traffic congestion and improve the safety of the roads in the Town.
 - T. Requiring adequate setbacks and off-street parking for both residential and non-residential uses.
 - U. Encouraging alternatives to strip commercial development, by encouraging new development in hamlet areas and/or concentrated nodes that minimize the road frontage and curb cuts required.
 - V. Ensuring new construction provides adequate access for emergency services.
 - W. Encouraging the use of conservation subdivision, planned unit development, transfers of development rights and other flexible techniques for simultaneously preserving open spaces, protecting natural resources and accommodating new development.
 - X. Protecting the community against unsightly, obtrusive and noisy land uses and operations.
 - Y. Providing public access to trails and other recreational resources.
- G. Further, it is the purpose of this Local Law to control those activities related to the Exploration for or Extraction of Natural Gas, which may impact wetlands, lakes, streams, groundwater resources, drinking supplies, public roads, historic landscapes, Agriculture, small town character, and the town's tourism and recreational- based economy. Impacts related to the Exploration for or Extraction of Natural Gas that the Town Of Rochester seeks to avoid include, but are not limited to contaminated water supplies, air pollution, traffic congestion, deterioration of roads and bridges, noise, introduction of industrial uses into non-industrial areas, human and animal illness, and incompatible changes to the rural character of the Town.
- H. This Local Law is intended to be of general applicability, in conjunction with Chapter 140, Zoning, and is intended to regulate all uses, practices, and methodologies associated with the Exploration for or Extraction of Natural Gas, except as provided herein.

IV. Definitions

“Natural Gas” shall mean any gaseous substance, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from other hydrocarbons.

“Natural Gas Exploration” shall mean geologic or geophysical activities related to the search for natural gas, or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, or other subsurface hydrocarbon deposits.

“Natural Gas Exploration and Production Materials” shall mean any solid, semi-solid, liquid, semi-liquid or gaseous material used in the exploration or extraction of natural gas.

“Natural Gas Exploration Production Wastes” shall mean any garbage, refuse, cuttings, sludge, flow-back fluids, produced waters or other discarded materials, including solid, liquid, semi-solid, or contained gaseous material that results from or is associated with the exploration, drilling or extraction of natural gas.

“Natural Gas Extraction” shall mean the digging or drilling of a well for the purposes of exploring for, developing or producing natural gas or other subsurface hydrocarbons.

“Natural Gas Extraction Support Activities” shall mean the construction, use, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a natural gas storage facility, or a natural gas gathering line, venting station, or compressor associated with the exploration or extraction of natural gas.

V. Regulation

- A. **Prohibition against the Exploration for or Extraction of Natural Gas.** No land in the Town shall be used: to conduct any exploration for natural gas; to drill any well for natural gas; to transfer, store, process or treat natural gas; or to dispose of natural gas exploration or production wastes; or to erect any derrick, building, or other structure; or to place any machinery or equipment for any such purposes.
- B. **Prohibition against the Storage, Treatment and Disposal of Natural Gas Exploration and Production Materials.** No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas and production materials.
- C. **Prohibition against the Storage, Treatment and Disposal of Natural Gas Exploration and Production Wastes.** No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas exploration and production wastes.
- D. **Prohibition against Natural Gas Extraction Support Activities.** No land in the Town shall be used for natural gas extraction support activities.
- E. **Bulk Fuel Storage.** No provision of this Local Law shall be deemed to regulate the use known as “Bulk Fuel Storage” as defined in Chapter 140, Zoning.
- F. **Invalidity of Permits.** No permit issued by any local, state or federal agency, commission or board for a use which would violate the prohibitions of this section or of this Local Law shall be deemed valid within the Town.

VI. Enforcement

Upon authorization by the Town Board, the Town may institute an action or proceeding in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this law.

VII. Severability

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part or provision or application.

VIII. Conflict

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or local laws, the most restrictive, or that imposing the higher standards, shall govern.

IX. Effective Date

This local law shall become effective immediately upon the filing in the office of the New York Secretary of State pursuant to section 27 of the municipal home rule law.