

LOCAL LAW FILING

NEW YORK STATE DEPARTMENT OF STATE

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DEPARTMENT OF STATE
Albany, NY 12224-0001
FILED

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Town of Rensselaerville

LOCAL LAW NO. 2 OF THE YEAR 2012

MISCELLANEOUS
& STATE RECORDS

A local law entitled "Gas Drilling Moratorium Law of 2012 of the Town of Rensselaerville"

A local law continuing a one-year moratorium, set forth in Local Law No. 3 of 2011 of the Town of Rensselaerville, on applications, approvals or drilling for natural gas in the Town of Rensselaerville.

Be it enacted by the Town Board of the Town of Rensselaerville as follows:

Section 1. Title:

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

Section 2. Purpose and Intent:

The purpose of this law is to continue an existing a one-year moratorium, set forth in Local Law No. 3 of 2011 of the Town of Rensselaerville, to temporarily suspend the administrative review, approval process and/or drilling activities associated with the production of natural gas on lands located in the Town of Rensselaerville for either new or pending proposals or activities regarding gas drilling. Pursuant to the statutory powers vested in the Town of Rensselaerville to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town of Rensselaerville hereby declares an additional one-year moratorium on the drilling for or extraction of natural gas within that subterranean area known as the Marcellus Shale or any other shale deposits located on or under land in the Town of Rensselaerville by the process commonly known as high-volume hydraulic fracturing.

The Town Board is aware of the current controversy surrounding the process of high-volume hydraulic fracturing. It realizes that there may be a number of reasons to support the use of that process, but that there have also been many issues of concern raised by persons opposed to it. In addition, the Town Board is very concerned regarding issues about such process that may have a significant negative effect on the Town's water supply, its roads and safety due to the high volume of truck traffic such process generates, property values, the Town's community character and the quality of life of its residents.

The Town Board is also aware that the State of New York is currently evaluating this 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 current State ban on this drilling process may expire soon and the Town Board wants to have the time necessary to investigate the issues

involved before and after evaluation of how any State regulation may affect the Town of Rensselaerville. The Board knows that a determination of the policy that should be in effect in Rensselaerville concerning this issue will involve reconciliation of scientific and engineering information not within the usual expertise of the Board. This policy may involve the effect of increased truck traffic on rural roads, reduction of property values within the Town, and the question of whether the extraction of natural gas by the process of high-volume hydraulic fracturing within the Town is compatible with the Town's community character and the Comprehensive Plan of the Town. The Town Board of the Town desires to address, in a careful manner, the question of if, and under what circumstances, the process of hydraulic fracturing should be allowed in this Town. The Town Board will now proceed in the process of considering various options relating to this issue.

The Town Board is in receipt of a report prepared by the Town of Rensselaerville Hydraulic Fracturing Committee dated September, 2012, entitled, "Potential Impacts of Hydraulic Fracturing and Natural Gas Drilling Operating in the Town of Rensselaerville" ("Report"). Such Report includes, among other things, extensive background on hydraulic fracturing and recommendations and proposed amendments to Town laws, regulations and/or policies.

The Town Board finds and determines that it needs the additional period of time covered by the moratorium imposed hereby in order to investigate and carefully study the question of the regulation of hydraulic fracturing, including the Report and the recommendations and proposed amendments to Town laws, regulations and/or policies therein, draft proposed amendments to the Town Code, make appropriate changes to the draft, schedule and hold the required public hearing on the Local Law, perform an appropriate environmental review of the Local Law, comply with applicable provisions of law, adopt the Local Law, and file a copy of the Local Law, as adopted, with the Secretary of State of the State of New York.

Section 3. Authority:

This moratorium extension is enacted by the Town Board of the Town of Rensselaerville pursuant to its authority to adopt local laws under the New York State Constitution Article IX, the Town Law and section 10 of the Municipal Home Rule Law.

Section 4. Moratorium Imposed:

For the period of one (1) year immediately following the effective date of this local law, there shall continue to be 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 Rensselaerville from that subterranean area known as the Marcellus Shale or any other shale by the process known as hydraulic fracturing.

During the time periods in which the moratorium remains in effect, no approvals, permits, actions or decisions shall be made or issued by any Board or official of the Town of Rensselaerville 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 Rensselaerville and no person, company,

entity of any kind shall engage in such drilling activities for natural gas while this law remains in effect.

Section 5. Effect of Moratorium:

While this Local Law remains in effect, no Board, body or official of the Town shall accept for review, continue to review, hold a hearing upon, make any decision upon, or issue any permit or approval upon any application or proposal for the uses, projects or developments set forth in Section 4 above. Any statutory or locally-enacted time periods for processing and making decisions on all aspects of the aforesaid applications are hereby suspended and stayed while this Local Law is in effect. 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 Rensselaerville or such other individual(s) as designated by the Town Board. It shall be the duty of the enforcement individual to advise the Town 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 one hundred dollars (\$100.00) 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. This supersession applies with respect to: (i) Town Law § 268 regarding the imposition of civil penalties; (ii) Town Law § 274-a with respect to the time frames for processing applications for site plan review, (iii) Town Law § 274b with respect to the procedures and time frames for processing applications for special use permits, and (iv) Town Law § 267 et. seq. with respect to the time frames for processing area and use variances, appeals or interpretations.

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 upon filing with the Secretary of State of the State of New York.

End of Law