

### **Town of Spafford Local Law 2011-3:**

A Local Law Placing a 180-Day Moratorium on Hydraulic Fracturing Activities Within the Town

#### **Section 1. Title**

This law will be known as the 2011 Moratorium Law on Hydraulic Fracturing and/or Hydrofracking of the Town of Spafford.

#### **Section 2. Legislative Intent**

A. The Town Board of the Town of Spafford is vested by the State of New York with the authority to regulate certain activity within the Town of Spafford to protect the health, safety, and welfare of its residents and the environment. The Town of Spafford has legitimate goals and aims to protect the community, and the cultural, historical, recreational and environmental resources within the Town, and the Town Board believes that studying certain activity is necessary so that certain activity is regulated to protect the Town's predominant residential and agricultural land uses and to protect the environment from potential negative impacts.

B. The Town Board recognizes the importance of finding and developing sources of natural gas energy for energy resources and believes that natural gas may be a cleaner and more beneficial source of energy than certain other energy sources. Natural gas development has existed in New York State for decades. There are vast amounts of natural gas in reserves in shale deposits and new technology has made it more economical to produce natural gas from shale deposits. There have been studies indicating that natural gas production using the hydraulic fracturing method, commonly referred to as "hydrofracking," may be a significant benefit to economic activity.

C. However, the Town Board is also concerned with the potential for damage to the environment posed by hydrofracking, particularly adverse impacts to groundwater quality and quantity, the potential for sediment and soil erosion and the release of naturally occurring radioactive materials, among others. Hydrofracking requires the use of large amounts of water, including the use of surface water (rivers, streams, ponds, basins, lakes), groundwater, wastewater, and other water sources. Further, the use of hydrofracking will create more demand for commercial wastewater treatment facilities to dispose of water byproduct. The Town Board is concerned with the potential for groundwater pollution, affecting many water wells and water sources in the Town, as well as the potential environmental impacts to water quality in Otisco Lake and Skaneateles Lake, which are the primary sources of drinking water for numerous municipalities in the region. There may also be further impacts to local roads during the construction and use of hydrofracking apparatus.

D. The use of hydrofracking has generated significant concern about the safety and reliability of this method to extract natural gas. As a result of these concerns, the Town Board believes that additional study and examination of necessary regulations relating to hydrofracking is warranted.

E. The Town Board is well aware of the current review of hydrofracking by the New York State Department of Environmental Conservation ("NYSDEC") and other governmental agencies and by private sources, including an assessment of the various potential environmental impacts from hydrofracking, analysis of the state laws, rules and regulations currently in place and the potential for additional regulations at the state or federal levels relating to hydrofracking. The Town Board has considered imposing a moratorium period to allow the Town Board time to review any further findings and any additional state or federal laws, rules or regulations, which would necessarily impact the role of the Town in the regulation of hydrofracking activity at the local level.

F. A moratorium would also allow necessary time for the Town Board to further examine potentially significant issues related to hydrofracking and examine whether local regulations relating to hydrofracking are necessary, and if so, the extent of such regulations. If the Town Board deems such local regulations are necessary, the Town Board may enact appropriate laws, rules and regulations to ensure the health, safety, and welfare of its residents and the environment consistent with other laws, rules and regulations.

G. The Town of Spafford does hereby find a moratorium of six (6) months duration is necessary and reasonable in order to afford the Town Board an opportunity to review the potential impacts of hydrofracking and to consider recommendations relating to hydrofracking. A moratorium of six (6) months will prevent the establishment or continuation of hydrofracking processes that may be contrary to any regulations that may be ultimately adopted. The health, safety and general welfare of the residents of the Town and its environment will be protected by the adoption of this moratorium pending the issuance of final regulations by the Town of Spafford or by other governmental agencies.

### **Section 3. Enactment of Local Law**

The Town Board declares a six-month moratorium on any activity or processes involving or associated with hydraulic fracturing or hydrofracking, including the continued use of hydraulic fracturing or hydrofracking within the Town of Spafford and the establishment, implementation, placement, or construction of new hydraulic fracturing or hydrofracking facilities or apparatus in the Town of Spafford after the effective date, and during the duration of this Local Law, and any extension hereof.

**Section 4. Definitions**

**HYDRAULIC FR.ACTURING OR HYDROFRACKING** - For purposes of this Local Law, the term "hydraulic fracturing" or "hydrofracking" shall mean the process of recovering and/or developing natural gas trapped behind or within shale or rock and which generally is accomplished by a gas well that is drilled vertically into the ground and then horizontally from the well head, after which water, sand, and/or chemicals are injected into the well for the breaking and/or fracturing of shale and/or other natural structures under the ground intending to release natural gas from the ground.

**PERSON** - For the purposes of this Local Law, the term "person" shall include an individual, or the association of individuals, partnership, joint venture, corporation, limited liability company, or any other entity, and the singular shall include the plural number.

**Section 5. Scope and Control**

A. For the period of six (6) months following the effective date of this Local Law, no new hydraulic fracturing or hydrofracking facilities or operations, as defined by this Local Law, or expansions beyond existing operations or facilities, shall be permitted by any person within the Town of Spafford.

B. During the effective period of this Local Law, the Code Enforcement Officer of the Town shall not consider and/or issue any building permit or other permit which would result in the establishment, implementation, placement, construction or development of any new hydraulic fracturing or hydrofracking facility or operation, including any activity associated therewith or in furtherance thereof, or the enlargement of any existing hydraulic fracturing or hydrofracking facility or operation within the Town.

C. If within six (6) months, the Town Board adopts a local law, rules or regulations relating to hydrofracking, then, in that event the moratorium imposed by this Local Law shall expire immediately on the date any such Town of Spafford local law, rules or regulations relating to hydraulic fracturing or hydrofracking takes effect in accordance with Section 27 of the Municipal Home Rule Law.

D. The Town Board of the Town of Spafford may amend, modify, terminate, or extend this Local Law in accordance with applicable law.

**Section 6. Exceptions**

The lawful use of any premises or apparatus on or after the effective date of this Local Law under a permit issued by the Town of Spafford or other appropriate state or federal agency may be continued, provided that such use conforms to applicable permits and state or federal laws, rules and regulations and shall not be enlarged or extended beyond the existing location and operation.

**Section 7. Enforcement**

This Local Law shall be enforced by the Code Enforcement Officer of the Town of Spafford, or such other individual(s) as may be designated by the Town Board, and it shall be the duty of the enforcement individual(s) to advise the Town Board of all matters pertaining to the enforcement of this Local Law and to keep all records necessary and appropriate and to file the same in the Office of the Town Clerk.

**Section 8. Violations**

Any person violating any of the provisions of this Local Law shall be guilty of an offense, and upon a conviction thereof, shall be subject to a civil penalty of not less than \$500.00 nor more than \$1,000.00 per day for each such violation. Each day's violation for any separate and individual violation shall constitute

a separate and additional violation. An action may be commenced in a court of competent jurisdiction to recover such penalty. In addition thereto, violations of this Local Law shall be subject to being restrained by injunctive relief.

**Section 9. Conflict With Other Laws**

This Local Law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law of the State of New York. While this Local Law is in effect, to the extent permitted by law, it shall take precedence over and shall be considered controlling over contrary laws.

**Section 10. Severability**

If any clause, sentence, paragraph, section, article, subdivision, provision, or part of this Local Law shall be adjudged by any Court of competent jurisdiction in the State of New York to be void, invalid or unenforceable, such adjudication or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations and only apply to the clauses sentence, paragraph, section, articles subdivision, provision, or part thereof directly involved in the controversy in which such adjudication or judgment shall have been rendered or so adjudged, and the remainder of this Local Law shall remain valid and in full force and effect.

**Section 11. Effective Date**

This Local Law shall become effective immediately upon filing with the Secretary of State.