

LOCAL LAW NO. 1. FOR 2012

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF BERNE, NEW YORK AS FOLLOWS:

SECTION 1. TITLE: This law shall be known as the “Town of Berne Hydraulic Fracturing and/or Hydrofracking Moratorium Law”., and is enacted pursuant to the authority and provisions of Article IX of the New York State Constitution, the Town Law and Section 10 of the Municipal Home Rule Law.

SECTION 2. LEGISLATIVE INTENT: The Town Board of the Town of Berne is vested by the State of New York with the power to regulate and control land use within the Town of Berne and to protect the health, safety and welfare of the residents of the Town.. The issue of hydraulic fracturing and/or hydrofracking has generated much concern about the safety and reliability of utilizing this method to recover and develop natural gas. The Town Board is also concerned that hydraulic fracturing and/or hydrofracking operations within the Town may have a significant negative impact on local roads within the Town resulting in damage to the roads and considerable expense to the taxpayers of the Town for necessary maintenance and repairs. The Town Board believes that these concerns warrant additional study and examination of necessary land use regulations relating to hydraulic fracturing and/or hydrofracking and the evaluation of impacts on local roads and taxpayer expense which may be occasioned by these impacts. Therefore, the Town Board through this local law finds that in order for the Town to evaluate these concerns a moratorium of six months duration on any activity or processes associated with hydraulic fracturing and/or hydrofracking, including the establishment, implementation, and/or construction of any hydraulic fracturing and/or hydrofracking facilities within the Town of Berne is necessary and appropriate

SECTION 3. DEFINITIONS: 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 shale or rock and which is generally 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 breaking and/or fracturing of shale and/or other natural structures under the ground intending to release natural gas from the ground.

SECTION 4. MORATORIUM IMPOSED: For a period of one hundred eighty (180) days from and after the effective date of this local law, no application for an approval or permit from the Town for the establishment, implementation, and/or construction of any hydraulic fracturing and/or hydrofracking facilities within the Town of Berne may be filed, accepted or processed. For the purpose of this local law an application for an approval or

permit from the Town shall be deemed to mean any request for official action by the Town Board, Planning Board, Code Enforcement Officer, or Building Inspector which request and approval would in any way commence or continue the processes associated with hydraulic fracturing and/or hydrofracking, including the establishment, implementation, and/or construction of any hydraulic fracturing and/or hydrofracking facilities within the Town of Berne.

SECTION 5. SUPERSESSSION: To the extent that this local law is inconsistent with any timeframes set forth in any state statute or regulation, it is the intent of this law to supersede any such statute or regulation for the duration of the moratorium established herein.

SECTION 6. SEVERABILITY: If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 5. EFFECTIVE DATE: This Local Law shall take effect immediately upon filing with the Secretary of State.