

**TOWN OF HURON
Proposed Local Law No. 6
of the Year 2012**

**A Local Law to Impose a Moratorium on
Natural Gas and Petroleum
Exploration and Extraction Activities**

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

Section 1. Title.

This Local Law shall be known as the "Moratorium on Natural Gas and Petroleum Exploration and Extraction Activities."

Section 2. Authority and Intent; Findings; Purpose.

- a. Authority and Intent.** This Local Law is intended to be consistent with and is adopted pursuant to the authority to enact zoning laws granted to the Town under the New York State Constitution, and the laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, §2(c)(ii)(10); Municipal Home Rule Law §10; Statute of Local Governments §10; and Town Law §§ 264 and 265.
- b. Findings of Fact.** The Town Board makes the following Findings of Fact relating to this Local Law:

 - 1. Huron is a community that takes great pride in and assigns great value to its rural residential character, small-town atmosphere, fine agricultural lands, beautiful waterfront, bays and other waters, and cultural, recreational, scenic and other natural resources. Huron attracts a significant number of visitors and summer residents.
 - 2. Many residents are dependent upon aquifers and wells for drinking water; maintaining the quality of water resources within the Town is critical to protecting the natural environment of the Town, the general health and welfare of Town residents, and the local economy.
 - 3. Preservation of the Town's irreplaceable recreational and scenic sites, high-quality agricultural land, waterfront, air quality and water quality, and priceless and unique character, is of significant value to the inhabitants of the Town and to the people who visit the Town.
 - 4. The Town's rich natural environment is a valuable asset that creates a sense of identity and well-being for residents of the area. Preserving and protecting

the scenic, recreational, other natural resources and aesthetics of the Town is important for both a healthy environment and vibrant economy.

5. Allowing the activities prohibited by Section 4 of this Local Law without first obtaining more education and information may impair the existing character of the Town, because by their nature, such activities may have the potential to produce a combination of negative impacts upon the environment and people living in or in proximity to the communities in which they are located. Negative impacts suggested to be associated with those activities include, without limitation, traffic, noise, vibrations, fumes, damage to roadways, degradation of water quality, degradation of air quality, damage to and loss of agricultural lands and soils, damage to and loss of open space, natural areas, and scenic views, decreased recreational opportunities, and loss of tourism.
 6. During the effectiveness of this Local Law, the Town Board can study the activities prohibited by Section 4 of this Local Law and determine whether to amend the Town Zoning Law to permanently prohibit those activities in portions, or all, of the Town.
- c. **Purpose.** The purpose of this Local Law is to enable the Town to stay any and all of the activities prohibited by Section 4 of this Local Law, and all Town-level approvals relating to those activities for a period of twelve (12) months in order to provide the Town time to study the impacts, effects, and possible zoning controls over such activities, and to consider amendments to the Town's zoning laws to appropriately address the same within the confines of New York State law. The Town Board believes that a twelve-month moratorium after the effective date of this Local Law, coupled with the mechanism for use variances already contained in the Town Zoning Law, will achieve an appropriate balancing of interests between the need to safeguard the character and other resources of the Town and the health, safety and general welfare of its residents, and the rights of individual property owners or businesses desiring to conduct such activities during that period.

Section 3. Definitions.

For purposes of this Local Law, the following terms shall have the meanings set forth below:

- a. "High Volume Hydraulic Fracturing" shall mean the stimulation of a vertical or horizontal well using 300,000 gallons or more of water as the primary carrier fluid in the Hydraulic Fracturing Fluid used in the process of Hydraulic Fracturing.
- b. "Horizontal Drilling" shall mean the process of drilling a well from the surface to a subsurface location just above the target gas or oil reservoir, then deviating the well bore from the vertical plane around a curve to intersect the reservoir at the

an entry point with a near-horizontal inclination, and remaining within the reservoir until the desired bottom hole location is reached.

- c. "Natural Gas and/or Petroleum Exploration Activities" shall mean geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, but only to the extent that such activities involve or employ core, rotary, or any other type of drilling or otherwise making any penetration or excavation of any land or water surface (including but not limited to the use of High Volume Hydraulic Fracturing and/or Horizontal Drilling) in the search for and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits, including all support facilities and activities, and all storage, treatment or disposal of waste, including water, from such activities.
- d. "Natural Gas and/or Petroleum Extraction Activities" shall mean the digging, drilling or use of a well (including but not limited to the use of High Volume Hydraulic Fracturing and/or Horizontal Drilling) for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons, including all support facilities and activities, and all storage, treatment or disposal of waste, including water, from such activities.
- e. "NYSDEC" shall mean the New York State Department of Environmental Conservation.
- f. "Town" shall mean the Town of Huron, in Wayne County, New York.

Section 4. Moratorium and Prohibition.

- a. For a period of twelve (12) months after the effective date of this Local Law, no application for a special permit, zoning variance, building permit, operating permit, site plan approval, subdivision plat approval, certificate of occupancy, certificate of compliance, temporary certificate, or other permit of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official or agent of the Town for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Town for any of the following activities: (i) any Natural Gas and/or Petroleum Exploration Activities; or (ii) any Natural Gas and/or Petroleum Extraction Activities.
- b. For a period of twelve (12) months after the effective date of this Local Law, no person or entity shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Town for any of the following activities: (i) any Natural Gas and/or Petroleum Exploration Activities; or (ii) any Natural Gas and/or Petroleum Extraction Activities.

- c. The prohibitions set forth in this Section 4 shall not apply to, and shall not prevent or prohibit: (i) transmission of natural gas through utility pipes, lines, or related appurtenances for the purpose of supplying natural gas utility services to residents of or buildings located in the Town; or (ii) incidental or normal sale, storage or use of lubricating oil, heating oil, gasoline, diesel fuel, kerosene, natural gas, propane or compressed natural gas in connection with legal agricultural, residential, business, commercial, and other uses within the Town, so long as such uses do not directly involve any Natural Gas and/or Petroleum Exploration Activities, Natural Gas and/or Petroleum Extraction Activities.
- d. The prohibitions set forth in this Section 4 do not apply to, and shall not prevent or prohibit, the production or extraction of natural gas and/or petroleum from any existing well or other existing facility in production or operation within the Town prior to the adoption of this Local Law, so long as such activities are in all respects being conducted in accordance with all applicable laws and regulations, including without limitation all permits required to be issued by the NYSDEC and any other regulating agencies. All such Natural Gas and/or Petroleum Exploration Activities identified in this subdivision shall be "grandfathered" as pre-existing, non-conforming uses, and shall be allowed to continue.
- e. The prohibitions set forth in this Section 4 shall not prevent or prohibit property owners from applying for use variance based on unnecessary hardship pursuant to Section 51.30(b) of the Town of Huron Zoning Law.

Section 5. Enforcement.

- a. **Building Inspector.** The provisions of this Local Law shall be administered and enforced by the Building Inspector and his or her Deputies. The Building Inspector and his or her Deputies are authorized to issue appearance tickets for violations of this law requiring appearance by the alleged violator in Huron Town Justice Court.
- b. **Criminal Penalties.** Any person, firm or corporation who violates, disobeys, neglects, refuses to comply with or resists the enforcement of any provision of this Local law or any written order of the Building Inspector or his or her Deputies directing compliance with this Local Law shall be guilty of an offense, and upon conviction thereof shall be subject to a fine of not more than one thousand dollars, or imprisonment for a period of not more than fifteen days, or both such fine and imprisonment for each offense. However, a person, firm or corporation convicted of a second or other repeated violation of this Local Law shall be guilty of a misdemeanor, and shall be subject to a fine of not more than two thousand dollars, or imprisonment for not more than six months, or both such fine and imprisonment for each offense.
- c. **Civil Penalties.** Any person, firm or corporation who violates, disobeys, neglects, refuses to comply with or resists the enforcement of any provision of this local

law or any written order of the Building Inspector or their Deputy directing compliance with this Local Law shall be deemed to have violated this Local Law, and shall be liable to pay the Town a civil penalty of up to one thousand dollars for each such violation. Such a civil penalty may be assessed in any action or proceeding brought by the Town or its taxpayers, pursuant to Town Law §268(2), or by the Town, to enforce the provisions of this local law.

- d. Continuous Violations.** Each day a violation or offense is continued or not corrected shall be deemed a separate violation or offense.
- e. Injunction.** Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town.
- f. Costs and Attorneys' Fees.** In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all necessary costs incurred by the Town relative to such action, including attorneys' fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the property or properties within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

Section 6. Superseding Intent and Effect.

This Local Law shall supercede any inconsistent provisions of the Town Zoning Law, or any and all other local ordinances, local laws or local resolutions of the Town of Huron.

Section 7. Severability.

If any provision of this Local Law is determined to be unconstitutional or invalid, the validity and enforceability of the remainder shall not be affected.

Section 8. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.