

**TOWN OF OTISCO
LOCAL LAW NO. 1 of 2011**

**AMENDMENT OF LOCAL LAW #1 of 2010 EXTENDING THE MORATORIUM
ON HYDRAULIC FRACTURING AND/OR HYDROFRACKING
IN THE TOWN OF OTISCO**

Be it enacted by the Town Board of the Town of Otisco, County of Onondaga, State of New York as follows:

Section 1. TITLE

This law shall be known as Amendment of Town of Otisco Local Law #1 of 2010 Extending Moratorium on Hydraulic Fracturing and/or Hydrofracking in the Town of Otisco and this Amendment both amends and supercedes Town of Otisco Local Law #1 of 2010.

Section 2. LEGISLATIVE INTENT

- A. The Town Board of the Town of Otisco is vested by the State of New York with authority to regulate certain activity within the Town of Otisco to protect the health, safety, and welfare of its residents and the environment. The Town of Otisco 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 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. 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, particularly groundwater quality and quantity, the potential for sediment and soil erosion and the release of naturally occurring radioactive materials, among other potential impacts. Hydrofracking requires the use of large amounts of water, including the use of surface water (rivers, streams, ponds, basins, lakes), groundwater, municipal water, wastewater, and other water sources. Further, the use of hydrofracking will create more demand for water and for commercial wastewater treatment facilities to dispose of hydrofracking byproduct. The Town Board is concerned with the potential for

groundwater pollution, possibly affecting many water wells and water sources in the Town. There may also be further impacts to local roads during the construction and use of hydrofracking facilities and apparatus. The Town Board is also concerned with the potential environmental impacts on water quality, agricultural land uses, wetlands, and Otisco Lake, which is the primary source of water for portions of the Town of Otisco and other local municipalities, and the Otisco Lake watershed.

- D. The use of hydrofracking has generated significant concern about the safety and reliability of this method of extracting natural gas. The Town Board believes that based on these concerns, 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 ("NYS DEC") and other governmental agencies and by private sources, including an assessment of the various potential environmental impacts from hydrofracking, analysis of 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 impending 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 other potentially significant issues relative to hydrofracking, and to examine whether local regulations relating to hydrofracking are necessary, and if so, the extent of such regulations. If the Town Board deems that 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 Otisco does hereby find that an extension of the existing moratorium imposed by Town of Otisco Local Law #1 of 2010 to December 31, 2011, is necessary and reasonable in order to afford the Town Board an opportunity to continue to review the potential impacts of hydrofracking and to consider recommendations to the Town Board relating to hydrofracking. A moratorium extension to December 31, 2011 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 enactment of this extension of the moratorium pending the issuance of final laws, rules or regulations by the Town of Otisco or by other governmental agencies.

Section 3. ENACTMENT OF LOCAL LAW.

The Town Board hereby declares an extension of the existing moratorium which is to expire on June 30, 2011, until December 31, 2011, to prohibit any new activities or processes involving or associated with hydraulic fracturing, or hydrofracking, within the Town of Otisco including the establishment, implementation, placement, or construction of new or expanded hydraulic fracturing or hydrofracking facilities or apparatus in the Town of Otisco after the effective date, and during the duration of this Local Law, and any extension hereof.

Section 4. DEFINITIONS

- A. **HYDRAULIC FRACTURING 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 possibly then horizontally from the well head, after which water, sand, chemicals, and/or other matter are injected into the well for the purpose of breaking and/or fracturing of shale and/or other natural structures under the ground intending to release natural gas from the ground.
- B. **PERSON** - For the purposes of this Local Law, the term "person" shall include an individual, society, club, firm, partnership, joint venture, corporation, limited liability company, or any other entity, or any association of persons as defined herein, and the singular shall include the plural number.

Section 5. SCOPE AND CONTROL

- A. For the period from June 30, 2011, through December 31, 2011, no new hydraulic fracturing or hydrofracking facilities or operations, as defined by this Amendment of Local Law #1 of 2010, and by Local Law #1 of 2010, or expansions beyond existing operations or facilities, shall be permitted by any person within the Town of Otisco.
- B. During the effective period of this Local Law, the Codes 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 or expansion of any existing hydraulic fracturing or hydrofracking facility or operation within the Town of Otisco.
- C. If, before December 31, 2011 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 Otisco 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 Otisco may amend, modify, terminate, or extend this Local Law in accordance with applicable law.
- E. The Town Board of the Town of Otisco reserves to itself the power, in its sole discretion, to vary or adapt the strict application of the requirements of this Local Law or any portion hereof, in the case of unusual hardship or circumstances that would deprive the property owner of the reasonable use of the lands involved, provided the application is consistent with the intent of this Local Law. An application for relief plus 5 copies thereof shall be filed with the Town Clerk, together with a filing fee of \$250.00. The application shall identify the land involved, recite the nature of the proposed use of the land, provide a narrative description of the project, identify the circumstances pursuant to which the relief is sought, and set forth the reasons why the relief is claimed. Any costs, including expert consulting fees, incurred by the Town shall be paid by the Applicant immediately upon request or the application may be denied. The Town Board may refer any application for relief to its consultants for their advice and recommendations. The Town Board may conduct a Public Hearing on any request for relief. All decisions on granting or denying such relief shall be made solely by the Town Board.

Section 6. EXCEPTIONS.

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

Section 7. ENFORCEMENT.

This Local Law shall be enforced by the Codes Enforcement Officer of the Town of Otisco, or such other individual(s) or agencies as may be designated by the Town Board, and it shall be the duty of the enforcement individual(s) or agencies 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 timely 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 and no more than \$1,000.00 per day for each 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. During the duration of times that 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, ordinances and provisions including, but not limited to, the statutes set forth in the New York Town Law. Specifically, this Law is intended to supersede Town Law Sections 130, 261, 262, 263, 264, 265, 267, 267-1, 267-b, 268, 269, 274-1, 274-b, 276, 277, 278 and 279.

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 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 clause, sentence, paragraph, section, article, 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.

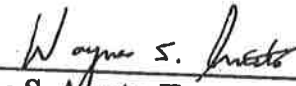
This Amendment of Local Law #1 of 2010 shall become effective immediately upon filing with the Secretary of State.

Town Board of the Town of Otisco

 2011



Be it so Ordered by the Town Board of the Town of Otisco.


Wayne S. Amato, Town Supervisor


Tammy M. Ayers, Town Clerk

**TOWN OF OTISCO
LOCAL LAW NO. #2 OF 2011**

**AMENDMENT #2 OF LOCAL LAW #1 OF 2010 EXTENDING THE MORATORIUM
ON HYDRAULIC FRACTURING AND/OR HYDROFRACKING
IN THE TOWN OF OTISCO**

Be it enacted by the Town Board of the Town of Otisco, County of Onondaga, State of New York as follows:

Section 1. TITLE

This law shall be known as Amendment #2 of Town of Otisco Local Law #1 of 2010 Extending Moratorium on Hydraulic Fracturing and/or Hydrofracking in the Town of Otisco and this Amendment both amends and supercedes Town of Otisco Local Law #1 of 2010.

Section 2. LEGISLATIVE INTENT

- A. The Town Board of the Town of Otisco is vested by the State of New York with authority to regulate certain activity within the Town of Otisco to protect the health, safety, and welfare of its residents and the environment. The Town of Otisco 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 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. 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, particularly groundwater quality and quantity, the potential for sediment and soil erosion and the release of naturally occurring radioactive materials, among other potential impacts. Hydrofracking requires the use of large amounts of water, including the use of surface water (rivers, streams, ponds, basins, lakes), groundwater, municipal water, wastewater, and other water sources. Further, the use of hydrofracking will create more demand for water and for commercial wastewater treatment facilities to dispose of hydrofracking byproduct. The Town Board is concerned with the potential for

groundwater pollution, possibly affecting many water wells and water sources in the Town. There may also be further impacts to local roads during the construction and use of hydrofracking facilities and apparatus. The Town Board is also concerned with the potential environmental impacts on water quality, agricultural land uses, wetlands, and Otisco Lake, which is the primary source of water for portions of the Town of Otisco and other local municipalities, and the Otisco Lake watershed.

- D. The use of hydrofracking has generated significant concern about the safety and reliability of this method of extracting natural gas. The Town Board believes that based on these concerns, 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 ("NYS DEC") and other governmental agencies and by private sources, including an assessment of the various potential environmental impacts from hydrofracking, analysis of 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 impending 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 other potentially significant issues relative to hydrofracking, and to examine whether local regulations relating to hydrofracking are necessary, and if so, the extent of such regulations. If the Town Board deems that 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 Otisco does hereby find that an extension of the existing moratorium imposed by Town of Otisco Local Law #1 of 2010 to June 30, 2012, is necessary and reasonable in order to afford the Town Board an opportunity to continue to review the potential impacts of hydrofracking and to consider recommendations to the Town Board and possible laws, rules or regulations to be issued by New York State or the federal government relating to hydrofracking. A moratorium extension to June 30, 2012 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 enactment of this extension of the moratorium pending the issuance of final laws, rules or regulations by the Town of Otisco or by other governmental agencies.

Section 3. ENACTMENT OF LOCAL LAW.

The Town Board hereby declares an extension of the existing moratorium which is to expire on December 31, 2011, until June 30, 2012, to prohibit any new activities or processes involving or associated with hydraulic fracturing, or hydrofracking, within the Town of Otisco including the establishment, implementation, placement, or construction of new or expanded hydraulic fracturing or hydrofracking facilities or apparatus in the Town of Otisco after the effective date, and during the duration of this Local Law, and any extension hereof.

Section 4. DEFINITIONS

- A. **HYDRAULIC FRACTURING 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 possibly then horizontally from the well head, after which water, sand, chemicals, and/or other matter are injected into the well for the purpose of breaking and/or fracturing of shale and/or other natural structures under the ground intending to release natural gas from the ground.
- B. **PERSON** - For the purposes of this Local Law, the term "person" shall include an individual, society, club, firm, partnership, joint venture, corporation, limited liability company, or any other entity, or any association of persons as defined herein, and the singular shall include the plural number.

Section 5. SCOPE AND CONTROL

- A. For the period from December 31, 2011, through June 30, 2012, no new hydraulic fracturing or hydrofracking facilities or operations, as defined by this Amendment #2 of Local Law #1 of 2010, and by Local Law #1 of 2010, or expansions beyond existing operations or facilities, shall be permitted by any person within the Town of Otisco.
- B. During the effective period of this Local Law, the Codes 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 or expansion of any existing hydraulic fracturing or hydrofracking facility or operation within the Town of Otisco.
- C. If, before June 30, 2012 the Town Board adopts a local law, rules or regulations relating to hydrofracking, or affecting natural gas and petroleum exploration and extraction activities, the underground storage of natural gas or petroleum and/or the disposal of natural gas or petroleum extraction, exploration or production wastes, then, in that event,

the moratorium imposed by this Local Law shall expire immediately on the date any such Town of Otisco local law, rules or regulations relating to hydraulic fracturing or hydrofracking takes effect in accordance with Section 27 of the Municipal Home Rule Law or as otherwise may be repealed.

- D. The Town Board of the Town of Otisco may amend, modify, terminate, or extend this Local Law in accordance with applicable law.
- E. The Town Board of the Town of Otisco reserves to itself the power, in its sole discretion, to vary or adapt the strict application of the requirements of this Local Law or any portion hereof, in the case of unusual hardship or circumstances that would deprive the property owner of the reasonable use of the lands involved, provided the application is consistent with the intent of this Local Law. An application for relief plus 5 copies thereof shall be filed with the Town Clerk, together with a filing fee of \$250.00. The application shall identify the land involved, recite the nature of the proposed use of the land, provide a narrative description of the project, identify the circumstances pursuant to which the relief is sought, and set forth the reasons why the relief is claimed. Any costs, including expert consulting fees, incurred by the Town shall be paid by the Applicant immediately upon request or the application may be denied. The Town Board may refer any application for relief to its consultants for their advice and recommendations. The Town Board may conduct a Public Hearing on any request for relief. All decisions on granting or denying such relief shall be made solely by the Town Board.

Section 6. EXCEPTIONS.

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

Section 7. ENFORCEMENT.

This Local Law shall be enforced by the Codes Enforcement Officer of the Town of Otisco, or such other individual(s) or agencies as may be designated by the Town Board, and it shall be the duty of the enforcement individual(s) or agencies 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 timely 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 and no more than \$1,000.00 per day for each 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. During the duration of times that 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, ordinances and provisions including, but not limited to, the statutes set forth in the New York Town Law. Specifically, this Law is intended to supersede Town Law Sections 130, 261, 262, 263, 264, 265, 267, 267-1, 267-b, 268, 269, 274-1, 274-b, 276, 277, 278 and 279.

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 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 clause, sentence, paragraph, section, article, 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.

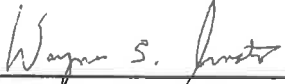
Section 11. EFFECTIVE DATE.

This Amendment #2 of Local Law #1 of 2010 shall become effective immediately upon filing with the Secretary of State.

Town Board of the Town of Otisco

December 12, 2011

Be it so Ordered by the Town Board of the Town of Otisco.



Wayne S. Amato, Town Supervisor



Tammy M. Ayers, Town Clerk