

TOWN OF HOLLAND

LOCAL LAW 2-2012

A LOCAL LAW TO AMEND LOCAL LAW 2-1988 "ADOPTION OF CODE", ADOPTED JULY 13, 1988 BY THE TOWN BOARD OF THE TOWN OF HOLLAND, AS AMENDED, TO PROVIDE FOR THE CONSTRUCTION OF OIL AND GAS WELLS.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF HOLLAND AS FOLLOWS:

SECTION 1. LEGISLATIVE INTENT

This Local Law amends Local Law 2-1988, known as "Adoption of Code", adopted by the Town Board of the Town of Holland on July 13, 1988, as amended, relating to the administrative, legislative and general legislation of codes within the Town of Holland as herein set forth.

SECTION 2. SECTION 120-22, RURAL RESIDENTIAL AGRICULTURAL DISTRICT

Section 120-22, Rural Residential Agricultural District is amended by adding the following:

Section 120-22(C)(19), Oil and Natural Gas Wells

SECTION 3. ARTICLE VI, SPECIAL PERMIT USES

Article VI, Special Permit Uses, is amended by adding the following:

Section 120-49-A, Oil and Natural Gas Wells

1. In accordance with New York Town Law Article 16, Section 261, the Town of Holland does hereby exercise its authority for the purpose of promoting the health, safety and general welfare of the Town, being empowered by Local Law to regulate and restrict the location and use of land. The exercise of such authorization includes the approval of special use permits in accordance with Town Law Section 274-a. The objective of the special use permit is to assure that the proposed use is in harmony with such zoning Local Law and will not adversely affect the neighborhood if such requirements are met. Town Law Section 274-b(8) requires compliance with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations. Notwithstanding superseding laws such as the Federal Natural Gas Act and the New York Environmental Conservation Law regulating the oil and gas industry, the land use authority granted to the Town may be exercised notwithstanding any incidental effect upon preempting laws, rules and regulations.
2. The applicant shall seek the consent of each owner and upon approval, shall determine the quality of all water wells located within 1,000 feet of both vertical and/or horizontal gas/oil wells. The applicant will provide pre- and post-construction testing by a qualified testing entity for all domestic water wells.

located within 1,000 feet of the proposed well site at no cost to the owner. Results of both the pre- and post-construction testing will be provided to the landowner and to the Town as a supplemental addition to the special use permit.

3. In the event there are subsequent adverse changes between the pre- and post-construction testing, attributable to the location, construction and use of the gas or oil wells, the applicant shall be responsible for all damages, both actual and consequential, caused by the construction and use of the gas or oil wells. The duration and frequency of subsequent sampling will be determined on a case-by-case basis depending upon the location of the oil and natural gas well in relation to surrounding water wells.
4. In the event the proposed drilling for oil and gas wells is within the "zone of contribution" to the Holland Aquifer, the applicant shall provide the Town with pre-and post-construction testing.

Section 120-49-B, Permit Required

1. This section is enacted pursuant to New York State Municipal Home Rule Law, New York Town Law, and New York Vehicle and Traffic Law Sections 385 and 1660, as to provide for the general health, safety and welfare of the citizens of the Town to regulate by "permit" the operation of motor vehicles exceeding the weight and dimensions standards set forth by New York Vehicle and Traffic Law Section 385 (hereinafter "permit").

2. Any vehicle or combination of vehicles that exceed the weight or dimensions standards set forth in New York Vehicle and Traffic Law Section 385 shall be prohibited from operating on roads under the jurisdiction of the Town unless holding a permit issued under the provisions of this Local Law.
3. This Local Law shall only apply to permits issued in connection with a “major project” as defined in this subsection. For purposes of this Local Law, “major project” shall mean a commercial activity involving the installation, development or construction of one (1) or more oil or natural gas wells and related infrastructure and facilities.
4. The Town Superintendent of Highways shall authorize the Town to issue the permits established by this Local Law. The Town Board shall set fees for such permits in accordance with the cost of issuing the permit and of inspecting and regulating the permitted activity.

Section 120-49-C, Permit Procedure

The Town Highway Superintendent shall make available to any applicant who wishes to operate a motor vehicle exceeding the weight and dimensions standards established by New York Vehicle and Traffic Law a permit application which shall require the applicant to submit, in a form acceptable to the Highway Superintendent, the following:

1. Proof of valid State motor vehicle registration for each vehicle.

2. A valid New York State Special Hauling Permit issued by the New York State Department of Transportation pursuant to New York Code of Rules and Regulations (NYCRR) Part 154 (17 NYCRR Section 1545).
3. A specification of the Town highways for which a permit is requested as well as a route map indicating the applicant's proposed hauling routes, if applicable.
4. Proof of liability insurance, as requested by the Highway Superintendent.

Additional relevant information may be required in the permit application as deemed necessary for the purposes of this Local Law by the Highway Superintendent.

Section 120-49-D, Permit Conditions

The Town Highway Superintendent is specifically authorized to attach appropriate conditions to any permit issued under this Local Law so as to ensure that hauling and road use by the applicant is consistent with the statutory purpose of New York Vehicle and Traffic Law Section 385 and provisions of this Local Law relating to an applicant's obligation to repair or replace any damage to Town roads occasioned by use of the permit. The specifications and costs associated with such repair or replacement shall be determined by the Town in accordance with statutory provisions regarding contracts for purchases of services.

Section 120-49-E, Multiple Permits

Should an applicant or one or more related applicants or one or more applications related to the same project or purpose apply for more than one (1) permit under the terms of this Local Law, such applicant(s) must execute a Road Maintenance Agreement acceptable to the Highway Superintendent substantially in a form approved by the Highway Superintendent and made part of the application form referred to in Section 1 herein.

Section 120-49-F, Permit and Road Maintenance Agreement Conditions

The Town Highway Superintendent is authorized to attach appropriate conditions to any permit issued under this Local Law and/or to the Road Maintenance Agreement so as to ensure that hauling and road use by the applicant is consistent with the statutory purposes of the New York Vehicle and Traffic Law Section 385, New York Vehicle and Traffic Law Section 1660 and the provisions of this Local Law relating to the operation of motor vehicles exceeding the weight and dimensions standards set forth in New York Vehicle and Traffic Law Section 385 and the applicant's obligation to repair or replace any damage to Town roads established by this Local Law and New York State law.

Section 120-49-G, Duration and Term

Permits under this Local Law shall be issued for a period of one (1) year and are subject to renewal for one (1) year periods provided the applicant has complied with the conditions of

the permit, and if applicable, the Road Maintenance Agreement.

Section 120-49-H, Revocation of Permit and Stop Orders

The Highway Superintendent is authorized to suspend any permit issued under the terms of this Local Law upon the issuance of a written notice of permit violation issued to the permit holder. Upon the issuance of a notice of permit violation, which may contain an Order immediately suspending the permit, the permit holder shall have an opportunity to correct any violation of the permit or shall have an opportunity to be heard by the Highway Superintendent within five (5) days of the notice of the permit violation. Should the applicant fail to correct any violation of an issued permit as specified by the Highway Superintendent, said permit may be revoked on ten (10) days' written notice to the applicant.

Section 120-49-I, Security Bond

Any applicant(s) for permits under this Local Law which may be subject to the requirement of a Road Maintenance Agreement shall fully comply with the indemnity, insurance and security provisions contained in said Road Maintenance Agreement.

Section 120-49-J, Additional Requirements

1. Any permit holder shall provide the Highway Superintendent with a minimum of seventy-two (72) hours notice of a permit holder's intent to commence use of the permit on Town roads and further said applicant shall be required, upon request by the Highway Superintendent, to provide the Highway Superintendent with

detailed information regarding the locations and duration of the truck routing activity authorized by the permit.

2. The Highway Superintendent may waive the requirements of this Local Law for publicly owned vehicles, those vehicles owned by a public utility and emergency vehicles.

Section 120-49-K, Violations and Penalties

1. Any person who shall operate or move a vehicle or a combination of vehicles, the weights or dimensions of which shall exceed the limitations provided in Section 385 on Town roads or highways without obtaining the permit required hereunder shall be guilty of a violation, which shall be punishable by a fine not exceeding five hundred dollars (\$500.) per occurrence for the first violation and not to exceed one thousand dollars (\$1000.) per occurrence for each subsequent violation.
2. The Town is specifically authorized to institute a civil action in New York Supreme Court to compel compliance with this Local Law.

Section 120-49-L, Severability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the

controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 4. EFFECTIVE DATE

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