

A Local Law Imposing a Temporary 12 Month Moratorium on Hydrofracking

Local Law 2-2012

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

Section 1. Title.

This Local Law shall be referred to as the "Local Law Imposing a Temporary 12 Month Moratorium on Hydrofracking."

Section 2. Purpose and Intent.

Pursuant to the statutory powers vested in the Town Board of the Town of Yorkshire (hereinafter the "Town") to regulate and control land use, and to protect the health, safety and welfare of its residents, the Town Board of the Town hereby declares a temporary twelve (12) month moratorium on Hydrofracking activities in the Town, or the issuance of any approvals or building permits therefor.

The Town anticipates that there may be an increase in the demand for mineral resources now located in the Town and that it may receive a number of new applications for, and inquiries about, the establishment or enlargement of Hydrofracking within the Town.

The question of integrating Hydrofracking within the Town's existing pattern of predominately residential and agricultural land use emphasizes the need for suitable siting, land use and zoning standards with reference to mineral extraction, consistent with applicable provisions of law.

The Town Board of the Town desires to address, in a careful manner, this integration question on a comprehensive Town-wide basis, rather than on an ad hoc basis, and to adopt Land Use Local Law provisions to properly regulate same.

The Town Board of the Town is now in the process of considering various options relating to this issue. The Town Board of the Town finds and determines that it needs the period of time covered by the moratorium imposed herein in order to carefully study the integration issue, draft proposed amendments to the Land Use Local Law, make appropriate changes to the draft of the proposed Local Law, schedule and hold the required public hearing on the Local Law, perform an appropriate environmental review of the Local Law, comply with applicable provisions of law, adopt the Local Law, and file a copy of the Local Law (as adopted) with the Secretary of State of the State of New York.

Section 3. Scope of Controls.

A. During the effective period of this Local Law:

1. The Town Board of the Town shall not grant any approvals which would have as the result the establishment or development of any new Hydrofracking activities or the enlargement of any existing Hydrofracking activities within the Town.

2. The Town Planning Board shall not approve any site plan, approve any special use permit or other permit which would have as a result the establishment or development of any new Hydrofracking activity or the enlargement of any existing Hydrofracking activity within the Town.

3. The Town Zoning Board of Appeals shall not grant any variance, special use permit or other permit for any use which would result in the establishment or development of any new Hydrofracking activity or the enlargement of any existing Hydrofracking activity within the Town.

4. The Building and Code Inspector of the Town shall not issue any building permit or other permit which would result in the establishment or development of any new Hydrofracking activity or the enlargement of any existing Hydrofracking activity within the Town.

B. The Town Board of the Town reserves the right to direct the Town Building and Code Inspector to revoke or rescind any Building Permits or Certificates of Occupancy issued in violation of this Local Law.

Section 4. No Consideration of New Applications.

No applications for Hydrofracking activity affected by this Local Law or for approvals for a site plan, a subdivision, a variance, a special use permit or other permits relating to Hydrofracking shall be considered by any board, officer or agency of the Town while the moratorium imposed by this Local Law is in effect.

Section 5. Term.

The moratorium imposed by this Local Law shall be in effect for a period of twelve (12) months from the effective date of this Local Law. In the event that the Local Law entitled, "A Local Law Amending the Land Use Local Law of the Town of Yorkshire, New York (Hydrofracking)" or a similar local law relating to Hydrofracking is adopted prior to the date that the moratorium imposed by this Local Law expires, then in that event the moratorium imposed by this Local Law shall expire immediately on the date that Town Local Law relating to Hydrofracking takes effect in accordance with section 27 of the Municipal Home Rule Law.

Section 6. Penalties.

Any person, firm or corporation that shall establish or develop any new Hydrofracking activity or enlarge any existing Hydrofracking activity in violation of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, regulations of the Town for violations; and

B. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to restore any extraction or excavation which may have taken place in violation of this Local Law.

Section 7. Validity.

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law which can be given effect without such invalid provision.

Section 8. Hardship.

A. Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board of the Town in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special use permit, site plan, or other permit during the period of the moratorium imposed by this Local Law.

B. Procedure.

Upon submission of a written application to the Town Clerk by the property owner seeking a variation of this Local Law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days' written notice in the Official Newspaper of the Town. At said Public Hearing the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law. If the Town Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary the application of this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

Section 9.

Notwithstanding the effective date of this Local Law, the provisions of this Local Law shall not be applicable to any portion of any lot within the Town for which any person has specifically applied prior to September 1, 2012 to the New York State Department of Environmental Conservation for a permit.

Section 10. Effective Date.

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with section 27 of the Municipal Home Rule Law.