



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

July 12, 2012

Robyn L Hanna
Riley & Graff LLP
26 East Main Street
PO Box 604
Clifton Springs NY 14432-0604

RE: Town of Hopewell, Local Law 2 2012, filed on July 6, 2012

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.state.ny.us.

Sincerely,
State Records and Law Bureau
(518) 474-2755

FILING LOCAL LAW

New York State Department of State
41 State Street, Albany, NY 12231

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City
Town of Hopewell
Village

Local Law No. 2 of the year **2012**.

A local law **"Establishing a Moratorium on Horizontal and Directional Gas Drilling and Hydraulic Fracturing"**

(Insert Title)

Be it enacted by the **Town Board** (Name of Legislative Body)

County
City
Town of Hopewell
Village

as follows:

Section 1. TITLE:

This Local Law shall be known as the "Moratorium on Horizontal and Directional Gas Drilling and Hydraulic Fracturing".

Section 2. STATEMENT OF LEGISLATIVE INTENT:

It is the purpose of this local law to prevent serious detrimental health and environmental effects posed by the practices of horizontal or directional gas drilling and hydraulic fracturing, also known as hydro-fracking, which could threaten the Town of Hopewell through potential contamination of aquifers and fresh water supply, the use of massive quantities of water, the disposal of the fracking fluids, the release of chemicals used in the processes and the impact upon local landscapes which could result in the degradation of the Town of Hopewell's significant environmental, natural, aesthetic and agricultural resources as well as to the Town of Hopewell's infrastructure. It is the further purpose of this local law to enable the Town of Hopewell to have sufficient time to research its ability to enact regulations pertaining to the practices of horizontal or directional gas drilling and hydraulic fracturing and to draft and enact a local law enacting such regulations within the Town of Hopewell.

Section 3. DEFINITIONS

- A. HORIZONTAL OR DIRECTIONAL DRILLING – The practice of digging a well, first, down vertically to a depth above the target gas-bearing rock formation, then, on a curve so that the hole is drilled horizontally or at an angle within the gas-bearing rock.
- B. HYDRAULIC FRACTURING OR HYDRO-FRACKING – The practice of pumping a fluid and a propping material, typically composed of sand or other chemicals, down a well under high pressure to create fractures in gas-bearing rock.
- C. TOWN: Town of Hopewell, Ontario County, New York
- D. TOWN BOARD: Town of Hopewell Town Board
- E. PLANNING BOARD: Town of Hopewell Planning Board
- F. BUILDING INSPECTOR: Town of Hopewell Building Inspector

Section 4. MORATORIUM.

A. The Town Board hereby enacts a moratorium which shall prohibit the review, approval or creation of any new wells, projects or businesses involving the practices of horizontal or directional drilling or hydraulic fracturing (hydro-fracking) anywhere within the Town.

B. This moratorium shall be in effect for a period of one (1) year from the effective date of this Local Law and shall expire on the earlier of (i) the date one (1) year from said effective date, unless renewed; or (ii) the enactment by the Town Board of a resolution indicating the Town Board is satisfied that the need for the moratorium no longer exists.

C. This moratorium shall apply to all real property within the Town.

D. Pursuant to this moratorium, the Planning Board shall not review any applications for any new wells, projects or businesses involving the practices of horizontal or directional drilling or hydraulic fracturing (hydro-fracking) and shall not grant any preliminary or final site plan approval to any property on which is intended to have on it any well, project or business involving the practices of horizontal or directional drilling or hydraulic fracturing (hydro-fracking) within the Town.

E. Pursuant to this moratorium, the Building Inspector shall not issue Building Permits for the construction of any well involving the practices of horizontal or directional drilling or hydraulic fracturing (hydro-fracking) anywhere within the Town.

F. Pursuant to this moratorium, no applications for variances, special use permits or other approvals involving any new wells, projects or businesses involving the practices of horizontal or directional drilling or hydraulic fracturing (hydro-fracking) shall be processed or granted.

Section 5. PENALTIES.

Any person, firm, entity or corporation which shall violate the provisions of this Local Law, shall be subject to:

1. A penalty in the amount of a minimum of \$100.00 and a maximum of \$250.00 for each day that such violation shall exist; and
2. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction or improvements which may have been built in violation of this Local Law.

It shall be the duty of the Building Inspector to enforce the provisions of this Local Law.

Section 6. VALIDITY.

If any clause, sentence, paragraph, section 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 or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 7. SUPERSEDING EFFECT.

Pursuant to New York Municipal Home Rule Law, Section 22, the provisions of this law are to supersede any inconsistent provision of state or local law.

Section 8. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the New York Department of State and shall remain in force and effect for a period of one (1) year from the date of such filing.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.),

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2012 of the **Town of Hopewell** was duly passed by the Hopewell Town Board on June 20, 2012, 2012, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer¹.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____, 20__ in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____, 20__. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____, 20__, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____, 20__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 20__, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

¹ Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county- wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or Village, or the supervisor of a Town where such officer is vested with the power to approve or veto local laws or ordinances.

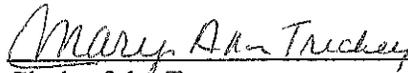
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2009 of the City of _____ of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 20__, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the County of _____, State of New York, having been submitted to the electors at the General Election of November __, 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the Towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.


Clerk of the Town

(Seal)

Date: June 20, 2012

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ONTARIO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Attorney to the Town
Town of Hopewell

Date: 6/27/12