

**LOCAL LAW NUMBER 1 OF 2013 OF THE TOWN OF NILES**

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

Section 1. Title.

This Local Law shall be known as the "Natural Gas and Petroleum Law for the Town of Niles," adopted as Local Law Number 1 of 2013.

Section 2. Enactment.

This Local Law is adopted and enacted pursuant to the authority and power granted by the Constitution and Laws of the State of New York, including without limitation the Municipal Home Rule Law of the State of New York, Articles 2 and 3.

Section 3. Purpose.

The purpose of this Local Law is to promote the protection, order, conduct, safety, health, and well-being of the residents of Niles and the lands that lie within the Town's border by prohibiting any land within the Town of Niles to be used for the purposes of natural gas exploration and extraction and the associated uses of land for outdoor factories and the heavy industrial uses associated therewith, including treatment, storage, and transportation of natural gas exploration and production wastes.

Section 4. Terms.

Chapter 138 of the Code of the Town of Niles shall be entitled "Natural Gas and Petroleum."

Chapter 138 of the Code of the Town of Niles shall hereby read as follows:

§ 138-1. Title.

This chapter shall be known as the "Natural Gas and Petroleum Law for the Town of Niles."

§ 138-2. Statutory Authority.

This chapter is enacted pursuant to the authority and power granted by the Constitution and Laws of the State of New York, including without limitation the Municipal Home Rule Law of the State of New York, Articles 2 and 3.

§ 138-3. Purpose.

The purpose of this Local Law is to promote the protection, order, conduct, safety, health, and well-being of the residents of Niles and the lands that lie within the

Town's border by prohibiting any land within the Town of Niles to be used for the purposes of Natural Gas and/or Petroleum Exploration or Extraction and the associated uses of land for outdoor factories and the heavy industrial uses associated therewith, including treatment, storage, and transportation of Natural Gas Exploration and/or Petroleum Production Wastes.

§ 138-4. Definitions.

"Natural Gas" shall mean any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

"Natural Gas and/or Petroleum Exploration" 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, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

"Natural Gas and/or Petroleum Exploration and Production Materials" shall mean any solid, semi-solid, liquid, semi-liquid or gaseous material used in the exploration or extraction of natural gas.

"Natural Gas Exploration and/or Petroleum Production Wastes" shall mean any garbage, refuse, cuttings, sludge, flow-back fluids, produced waters or other discarded materials, including solid, liquid, semi-solid, or contained gaseous material that results from or is associated with the exploration, drilling or extraction of natural gas and/or petroleum.

"Natural Gas and/or Petroleum Extraction" shall mean the digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons.

"Natural Gas and/or Petroleum Support Activities" shall mean the construction, use, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a natural gas or petroleum storage facility, or a natural gas or petroleum gathering line, venting station, or compressor associated with the exploration or extraction of natural gas or petroleum.

§ 138-5. Prohibited Activity.

A. No land in the Town shall be used to:

- (1) conduct any Natural Gas and/or Petroleum Exploration or Extraction;

- (2) drill any well for Natural Gas;
- (3) transfer, store, process or treat Natural Gas;
- (4) engage in any Natural Gas and/or Petroleum Support Activities;
- (5) erect any derrick, building, or other structure for the purposes of Natural Gas and/or Petroleum Exploration or conducting any Natural Gas and/or Petroleum Support Activities;
- (6) place any machinery or equipment for the purposes of Natural Gas and/or Petroleum Exploration or conducting any Natural Gas and/or Petroleum Support Activities; or
- (7) store, transfer, treat and/or dispose of Natural Gas and/or Petroleum Exploration and Production Materials or Natural Gas and/or Petroleum Exploration and Production Wastes.

§ 138-6. Amendments.

This chapter may be amended as provided by Town Law.

Section 5. 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 of the Town of Niles hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 6. Repeal.

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 7. Effective Date.

This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

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STATE RECORDS

JUL 25 2012

**LOCAL LAW NUMBER 1 OF 2012 OF THE TOWN OF NILES**

DEPARTMENT OF STATE

**Section 1. Title**

This Local Law shall be referred to as the "Local Law imposing a moratorium on the activity known as hydraulic fracturing and/or hydrofracking in the Town of Niles.

**Section 2. Purpose and Intent**

Pursuant to the statutory powers vested in the Town of Niles to regulate and control land use and to protect the health, welfare, and safety of its residents, the Town Board of the Town of Niles declares a one year moratorium on the process known as hydraulic fracturing and/or hydrofracking, as well as a moratorium on any activity associated therewith or intending to support such process including the establishment, implementation, placement or construction of such process or activity in the Town of Niles.

**Section 3. Legislative Findings**

The Town Board of the Town of Niles enacts this moratorium pursuant to its legislative powers and to preserve for the Town Board on behalf of the residents of the Town, the ability to deliberately review the issues and concerns related to the process known as hydraulic fracturing and/or hydrofracking, and to provide adequate time to determine if permanent comprehensive local legislation is necessary and in the best interests of the Town. As of this date, a state wide moratorium on hydrofracking remains in effect, the New York State Department of Environmental Conservation (DEC) has published a Preliminary Draft Generic Environmental Impact Statement and the DEC's review is ongoing. At this point, it is not yet clear as to what, if any, regulatory regimen may be put in place by DEC and/or the New York State Legislature. The Town Board is desirous of using the moratorium period to monitor and review the status of state action, and to study and give careful consideration to the subject of hydraulic fracturing, its impact on the physical and human environment in the Town and the possible need for local legislation.

**Section 4. Scope of Moratorium**

During the effective period of this Local Law, the Town Board, the Town Planning Board, the Town Zoning Board of Appeals, and the Codes Enforcement Officer shall not grant any special use permit, specific use permit, building permit, variance, or approval of any kind which would result in the establishment, implementation, placement or construction of the process know as hydraulic fracturing and/or hydrofracking, including any activity associated therewith or intending to support such process including the establishment or implementation of such process or activity in the Town of Niles.

**Section 5. Term**

This moratorium shall be in effect for a period of one year from the effective date.

**Section 6. Penalties and Enforcement**

Any person, firm, corporation or other entity that shall take any action to establish, implement, place or construct the process known as hydraulic fracturing and/or hydrofracking, including the establishment, implementation, placement or construction of any activity or facility associated therewith or intended to support such process in violation of the provisions of this Local Law shall be subject to such penalties as may be provided by any applicable local law, ordinance, rules, or regulation of the Town for violations. The Town Board may seek injunctive relief to cease any activity in violation of this Local Law or to remove any construction that 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 which may be given effect without such invalid provision.

**Section 8. Hardship**

A. In the event that any owner of real property affected by this Local Law shall suffer an unnecessary hardship because of the the implementation of the letter of this Local Law, then the owner of such property may make a written application to the Town Board for a variance from strict compliance with this Local Law. Unnecessary hardship shall not mean a mere delay in being able to pursue hydraulic fracturing or to be able to apply for and receive a decision upon any permit or approval of any kind related thereto.

B. Applications for a variance shall be in writing and shall set forth or have attached thereto evidence of the claimed hardship. The Town Board shall schedule a public hearing on any such application within thirty (30) days of its receipt upon at least five (5) days notice by publication in the Town's official newspaper and posting on the Town Clerk's board. At said public hearing, the property owner and other interested parties shall be heard and given the opportunity to present evidence in connection with the application. The Town Board shall render a decision in writing within thirty (30) days of the public hearing. If the Town Board determines that the property owner will suffer an unnecessary hardship by means of the strict application of this Local Law, then the Town Board will grant the minimum variance necessary to afford relief to the applicant.

**Section 9. Definitions**

A. The terms "hydraulic fracturing" and/or "hydrofracking" shall mean the process of recovering and/or developing natural gas trapped behind shale, rock, or other natural formations and which is generally accomplished by a well that is drilled into the ground

and then horizontally from the well head, after which water, sand and or chemicals are injected into the well, breaking or fracturing the shale or other natural structures under the ground and intending to release natural gas from the ground.

B. The term "Town" shall mean the Town of Niles.

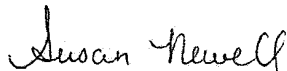
C. The terms "Town Board", "Planning Board" and "Zoning Board of Appeals" shall refer to the appropriate boards established in the Town of Niles pursuant to the Town Law. The term "Codes Enforcement Officer" shall mean the duly appointed officer in the Town of Niles charged with the enforcement of the Town's zoning and related codes.

**10. State Environmental Quality Review Act (SEQRA)**

The Town Board has considered the provisions of Article 8 of the Environmental Conservation Law (SEQRA) and the regulations adopted thereunder at 6 NYCRR Part 617 and finds this Local Law to be a Type II Action as defined therein. Therefore, no further review is required under SEQRA.

**11. Effective Date**

This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State as provided for in §27 of the Municipal Home Rule Law.



**Susan Newell / Niles Town Clerk**

## **LOCAL LAW NUMBER 5 OF 2011 OF THE TOWN OF NILES**

### **Section 1. Title**

This Local Law shall be referred to as the "Local Law imposing a moratorium on the activity known as hydraulic fracturing and/or hydrofracking in the Town of Niles.

### **Section 2. Purpose and Intent**

Pursuant to the statutory powers vested in the Town of Niles to regulate and control land use and to protect the health, welfare, and safety of its residents, the Town Board of the Town of Niles declares a one year moratorium on the process known as hydraulic fracturing and/or hydrofracking, as well as a moratorium on any activity associated therewith or intending to support such process including the establishment, implementation, placement or construction of such process or activity in the Town of Niles.

### **Section 3. Legislative Findings**

The Town Board of the Town of Niles enacts this moratorium pursuant to its legislative powers and to preserve for the Town Board on behalf of the residents of the Town, the ability to deliberately review the issues and concerns related to the process known as hydraulic fracturing and/or hydrofracking, and to provide adequate time to determine if permanent comprehensive local legislation is necessary and in the best interests of the Town. As of this date, a state wide moratorium on hydrofracking remains in effect, the New York State Department of Environmental Conservation (DEC) has published a Preliminary Draft Generic Environmental Impact Statement and the DEC's review is ongoing. At this point, it is not yet clear as to what, if any, regulatory regimen may be put in place by DEC and/or the New York State Legislature. The Town Board is desirous of using the moratorium period to monitor and review the status of state action, and to study and give careful consideration to the subject of hydraulic fracturing, its impact on the physical and human environment in the Town and the possible need for local legislation.

### **Section 4. Scope of Moratorium**

During the effective period of this Local Law, the Town Board, the Town Planning Board, the Town Zoning Board of Appeals, and the Codes Enforcement Officer shall not grant any special use permit, specific use permit, building permit, variance, or approval of any kind which would result in the establishment, implementation, placement or construction of the process know as hydraulic fracturing and/or hydrofracking, including any activity associated therewith or intending to support such process including the establishment or implementation of such process or activity in the Town of Niles.

## **Section 5. Term**

This moratorium shall be in effect for a period of one year from the effective date.

## **Section 6. Penalties and Enforcement**

Any person, firm, corporation or other entity that shall take any action to establish, implement, place or construct the process known as hydraulic fracturing and/or hydrofracking, including the establishment, implementation, placement or construction of any activity or facility associated therewith or intended to support such process in violation of the provisions of this Local Law shall be subject to such penalties as may be provided by any applicable local law, ordinance, rules, or regulation of the Town for violations. The Town Board may seek injunctive relief to cease any activity in violation of this Local Law or to remove any construction that 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 which may be given effect without such invalid provision.

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#### **11. Effective Date**

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