

Town of Olive Local Law #1 of 2013

A Local Law creating §155-45 of the Town of Olive Zoning Ordinance with regard to Exploration for and/or Extraction of Natural Gas and/or Petroleum.

Section 1.

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, and Article 2 of the New York State Statute of Local Governments, and pursuant to the authority of Section 265 of the New York State Town Law.

Section 2. PURPOSE

- A. It is the purpose of this Local Law to promote the protection, order, conduct, safety, health, and well-being of the residents of the Town of Olive and the lands that lie within the Town's borders.
- B. It is the purpose of this Local Law to protect and enhance the Town's physical and visual environment.
- C. It is the purpose of this law to respond to the legitimate concerns of the citizens of the Town about the potential for expansion of the Exploration for or Extraction of Natural Gas and/or Petroleum Industry in the Town and about the potential for major portions of the Town and its citizens to be adversely impacted by such Industry.
- D. Further, it is the purpose of this Local Law to control those activities related to the Exploration for or Extraction of Natural Gas and/or Petroleum Industry, which may impact wetlands, lakes, streams, groundwater resources, drinking supplies, air quality, public health, public roads, historic landscapes, Agriculture, small town character, and the town's tourism and recreational- based economy. Impacts related to the Exploration for or Extraction of Natural Gas and/or Petroleum Industry that the Town Of Olive seeks to avoid include, but are not limited to contaminated water supplies, air pollution, light pollution, traffic congestion, deterioration of roads and bridges, noise, introduction of industrial uses into non-industrial areas, human and animal illness, and incompatible changes to the rural character of the Town.
- E. This Local Law is intended to be of general applicability, in conjunction with Chapter 155 and is intended to regulate all uses, practices, and methodologies associated with the Exploration for or Extraction of Natural Gas and/or Petroleum Industry, except as provided herein.

Section 3. DEFINITIONS

§155-45 of the Zoning Ordinance of the Town of Olive shall be created to include the following definitions which shall be inserted alphabetically into that section:

“Natural Gas” shall mean any gaseous substance, either combustible or non-combustible, 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 vapor 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, leachate, 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 Extraction Support Activities” shall mean a water or fluid gathering station and /or water extraction sites in all town and private waterways including but not limited to reservoirs, aquifers, rivers, creeks, ponds; a water or fluid injection station; construction, use, or maintenance of a storage or staging yard; a natural gas or petroleum storage facility and/or waste water retention “ponds;” a natural gas or petroleum gathering line, venting station, or compressor associated with the exploration or extraction of natural gas or petroleum.

Section 4: REGULATION

Now, therefore, Chapter §155-45 Regulation of Exploration and./or Extraction of Natural Gas and/or Petroleum of the Town of Olive Zoning Ordinance is hereby created as follows:

§155-45 EXPLORATION FOR OR EXTRACTION OF NATURAL GAS AND/OR PETROLEUM

- A. **Prohibition against the Exploration for or Extraction of Natural Gas and/or Petroleum.** No land in the Town shall be used: to conduct any exploration for natural gas and/or petroleum; to drill any well for natural gas and/or petroleum; to transfer, store, process or treat natural gas and/or petroleum; or to dispose of natural gas and/or petroleum exploration or production wastes; or to erect any derrick, building, or other structure; or to place any machinery or equipment for any such purposes.
- B. **Prohibition against the Storage, Treatment and Disposal of Natural Gas and/or Petroleum Exploration and Production Materials.** No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production materials.
- C. **Prohibition against the Storage, Treatment and Disposal of Natural Gas and/or Petroleum Exploration and Production Wastes.** No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production wastes.
- D. **Prohibition against Natural Gas and/or Petroleum Extraction Support Activities.** No land in the Town shall be used for natural gas and/or petroleum extraction support activities.

Section 5. ENFORCEMENT

Upon authorization by the Town Board, the Town may institute an action or proceeding in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this law in addition to the penalties in §155-33.

Section 6. SEVERABILITY

The provisions of the local law are declared to be severable, and if any section, subsection, sentence, clause of part thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this local law.

Section 7. REPEALER

All local laws or parts of local laws inconsistent or in conflict with this local law are hereby repealed to the extent of such conflict or inconsistency.

Section 8. EFFECTIVE DATE This law shall become effective immediately.

Resolution #10 of 2012
Adopt Local Law #1 of 2012
Place a Moratorium on Exploration, Extraction, Transportation,
Disposal and Storage of Shale Gas, Waste Products from Extraction of Shale Gas, and
Infrastructure Supporting Extraction of Shale Gas within the Town of Olive

WHEREAS, the Town Board of the Town of Olive passed Resolution #9 of 2012 requesting a local law to place a moratorium on exploration, extraction, disposal and storage of natural gas within the Town of Olive; and

WHEREAS, Local Law #1 of 2012 was drafted by the Attorney for the Town and reviewed by an expert Attorney; and

WHEREAS, the public hearing on Local Law #1 of 2012 was held on May 7, 2012; and

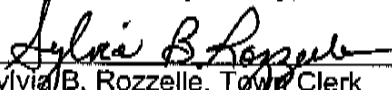
WHEREAS, the Town Board reviewed and considered all public comments received on proposed Local Law #1 of 2012; and

WHEREAS, public comments were overwhelmingly supportive of passing proposed Local Law #1 of 2012;

THEREFORE, BE IT RESOLVED, the Town Board of the Town of Olive approves Local Law #1 of 2012 Moratorium on Exploration, Extraction, Transportation, Disposal and Storage of Shale Gas, Waste Products from Extraction of Shale Gas, and Infrastructure Supporting Extraction of Shale Gas within the Town of Olive.

	Aye	Nay
Berndt Leifeld, Supervisor	<u> X </u>	<u> </u>
Donald VanBuren, Board Member	<u> X </u>	<u> </u>
Linda Burkhardt, Board Member	<u> X </u>	<u> </u>
Bruce La Monda, Board Member	<u> X </u>	<u> </u>
Peter Friedel, Board Member	<u> X </u>	<u> </u>

Dated this 8th day of May, 2012



 Sylvia B. Rozzelle, Town Clerk

LOCAL LAW NO. 1 OF THE TOWN OF OLIVE OF THE YEAR 2012**BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF OLIVE****Section 1. TITLE**

This local law shall place a Moratorium on exploration, extraction, transportation, disposal and storage of shale gas, waste products from extraction of shale gas, and infrastructure supporting extraction of shale gas within the Town of Olive.

Section 2. PURPOSES

The Town has an obligation to protect the health, safety and welfare of the Town and its' inhabitants and natural environment by governing the corporate extraction of shale gas within the Town of Olive. Pending the consideration by the Town Board giving due consideration to public input, and anticipating the review of options to protect and defend the fundamental rights of community members and the natural environment, including the complete prohibition of shale gas extraction using unconventional methods, the Town Board chooses to enact a local law imposing a Moratorium of one year's duration. To that end, the Town has passed a resolution to impose a moratorium for a period of one year on the extraction of shale gas by the process of hydro-fracking, directional drilling, and the transportation, storage and disposal of any by-products of said process on the roads or lands within the Town. This Moratorium includes a one-year prohibition on establishing infrastructure that would support unconventional shale gas extraction, including but not limited to pipelines, compressor stations, impoundment ponds, temporary housing and structures, roads and the like.

Section 3. ENACTMENT

A Moratorium is hereby enacted on all uses furthering the exploration, extraction, disposal and storage of shale gas within the Town of Olive for a period of one year from the enactment of this law.

Section 4. WAIVER

In the event that the enforcement of this Moratorium should result in undue hardship or practical difficulties, the Town Board, in its' sole discretion, may waive or vary any provision of this local law consistent with the health, safety and welfare of the community. Said application for a waiver shall be made to the Town Board in writing and shall be accompanied by a \$10,000 payment to be put in escrow to defray costs for the Town to evaluate the application. If the Town permits an application to proceed, then any permits granted thereby will conform to the new laws which will be enacted after the initial application.

Section 5. SEVERABILITY

The provisions of this local law are declared to be severable, and if any section, subsection, sentence, clause or part thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this local law.

Section 6. REPEALER

All local laws or parts of local laws inconsistent or in conflict with this local law are hereby repealed to the extent of such conflict or inconsistency.

Section 7. WHEN EFFECTIVE

This local law will take effect immediately upon enactment by the Town Board and as provided by law.