

MEMORANDUM

DATE: October 20, 2011

TO: Mayor Cousineau and the Village of Sharon Springs Board of Trustees

FROM: Michelle L. Kennedy, Esq.

RE: Draft Amendments for Clarification to Zoning Law

Amend Enactment Clause, Section 1.4 to read:

“Be it enacted by the Board of Trustees of the Village of Sharon Springs as follows: this Zoning Law is adopted and enacted pursuant to the power and authority granted by Municipal Home Rule Law of the State of New York, Articles 2 and 3, and pursuant to the Village Law of the State of New York, Chapter 64 of the Consolidated Laws, Article 7, in conformance with the Comprehensive Plan for the Village of Sharon Springs, to protect and promote public health, safety, comfort, convenience, economy, natural and cultural resources, aesthetics, and the general welfare, and for the purposes outlined in Section 1.3.”

Add general prohibition language as follows:

Prohibited Uses: Heavy Industry is prohibited within all Districts, including Overlay Districts, within the Village of Sharon Springs. Uses not specifically permitted in any district, likewise, are prohibited, except that the Planning Board may find that a use is sufficiently similar to a permitted use as to be included within the definition of that use.

Add or amend the following definitions:

Commercial Excavation - Property or part thereof used for the purposes of extracting stone, sand, gravel, or topsoil; does not include operations extracting natural gas and/or petroleum or the process of grading a lot preparatory to the construction of a building for which a permit has been issued.

Heavy Industry – Any use or activity, which generates significant volumes of smoke, odors, noise, toxins or other polluting wastes and is not compatible with other uses in the Village of Sharon Springs. Examples of “heavy industry” which are intended to be included in this definition are: chemical manufacturing; exploration for natural gas; extraction of natural gas; natural gas processing facilities (as defined elsewhere

in this Law) and/or compressor stations; exploration for crude oil; extraction of crude oil; oil refineries; coal mining; coal processing; and steel manufacturing. It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to the activities identified in the examples.

Generic examples of uses not intended to be included in the definition of “heavy industry” are: milk processing plants; dairy farms; office and communications uses; garment factories; woodworking and cabinet shops; automobile repair shops; wineries and breweries; warehouses and distribution centers; equipment repair and maintenance facilities; helipads; parking lots and parking garages; light manufacturing or light industrial facilities (as defined elsewhere in this Law); agriculture; and surface gravel and sand mining. It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to those activities identified in the examples.

Light Industrial and/or Light Manufacturing - A facility or use which does not produce high volumes of polluting wastes, is compatible with other uses in its surrounding area or neighborhood, and in addition, meets one of the following descriptions:

- i. Light Manufacturing. A use involving the manufacture of a product, subject to compliance with any other applicable ordinances, laws or regulations, in one of the following categories:
 - A. Food and beverage production, including but not limited to such uses as a dairy processing plant, bakery, and bottling plant.
 - B. Apparel and other textile products.
 - C. Furniture and fixtures.
 - D. Printing and publishing.
 - E. Electrical and electronic machinery and equipment.
 - F. Metal fabrication.
 - G. Distribution center.
 - H. Warehousing ancillary to the authorized use.

- ii. Light Industrial. A facility, which manufactures, designs, assembles, or processes a product for wholesale or retail sale.

Natural Gas Exploration, Extraction, or Processing - The exploration for natural gas, the extraction of natural gas from the ground regardless of the extraction method used, and/or the processing of natural gas. This definition shall specifically include, but not be limited to, the extraction method commonly known as hydraulic fracturing. This definition shall also be construed to encompass and include any activity or use of land, which facilitates or supports natural gas exploration, extraction, or processing. Examples of activities or uses of land expressly intended to be included in this definition are set forth below:

- Drilling and/or installation of a new natural gas well, regardless of well type;
- Development of a well operations site and associated structures and infrastructure;
- Mixing, storage, treatment, and/or disposal of chemicals, wastewater, proppant or other materials used for, or in connection in any way with, the exploration for or extraction of natural gas;
- Parking, standing and/or storage of any type of vehicle, equipment, and/or materials used for, or in connection in any way with, the exploration for or extraction of natural gas;
- Installation and/or use of pipes, conduits or other material transport or gathering equipment or systems used for, or in connection in any way with, the exploration for or extraction of natural gas

It is expressly stated that the foregoing examples are not intended to be exhaustive and shall not be construed to limit the meaning, scope or application of this definition or to limit the application of this definition solely to those activities identified in the examples.

Public Utility – any use operated by a governmental entity or public utility in connection with any of the following public services: water, water management, public education, parks and recreation, fire and police protection, solid waste management, utilities, hospitals or other public service uses.

Retail – goods for sale to the general public for personal and household consumption, including, but not limited to appliances, baked goods, meats, medications, floral arrangements, groceries, tools, liquor, newspapers, magazines and books, shoes, apparel, and stationary.

Wholesale – retail goods for sale in large quantities.

Add following language under Article V regarding non-conforming uses as a result of draft amendments to the Zoning Law:

Non-Conforming Uses:

New “Heavy Industry” uses, as defined elsewhere in this Law, shall be prohibited in the Village of Sharon Springs beginning on the effective date of this Law. The definition of “Heavy Industry” in this Law includes, but is not limited to the exploration for natural gas; extraction of natural gas; natural gas processing facilities; exploration for crude oil; extraction of crude oil; oil refineries; coal mining; coal processing. For the purposes of this provision of the Law, and solely for the ease of drafting and reading, all those uses and activities shall be referred to collectively as “gas, oil and coal extraction”.

Any leases of property for the purpose of allowing gas, oil or coal extraction, or any gas, oil or coal extraction operations which are being presently conducted on land in the Town as of the effective date of this Law, shall be subject to the following:

- A. Existing Leases:
 - 1. Where a lease, which allows gas, oil or coal extraction, has been executed and where no substantive gas, oil or coal extraction activity has substantively commenced as of the effective date of this Law, then this Law shall apply in full effect and shall operate to prohibit all such activities. The existence of a lease under the circumstances described in this paragraph shall convey no vested right upon either party to the lease.

- B. Existing Gas, Oil and Coal Extraction Operations
 - 1. Where a lease which allows gas, oil, or coal extraction has been executed, and where substantive gas, oil or coal mining extraction activity is occurring as of the effective date of this Law, and those activities are being conducted pursuant to valid permits issued by the New York State Department of Environmental Conservation or other regulating agencies, in that case the activity shall be considered a non-conforming use and shall be allowed to continue.

 - 2. Upon the depletion of any gas or oil well or coal mine which is allowed to remain in operation pursuant to this provision, or upon any other termination of the gas, oil or coal extraction activity for a period of more than one (1) year, the non-conforming use status of that activity shall terminate and the activity may not be renewed.

3. Further, no gas, oil or coal extraction activity allowed to remain in operation pursuant to this provision shall be permitted to expand after the effective date of this Law.

Amendments related to form and procedure under the law follow:

Change “Regulations” to “Law” throughout document for consistency.

Section 2.1 C: Change “of” to “for.”

Omit all automatic approval provisions for lapse in time period for review of applications, plans, etc.

Omit Section 3.1(B)(2)

Add “PDD Planned Development District (Overlay District)” under Section 3.1(B); format reference to “Flood Hazard District (Overlay District)” similarly (no longer necessary to mark as “1.” with “2.” omitted.)

Change all references to “Industrial” to “Light Industrial.”

Change all references to “Manufacturing” to “Light Manufacturing.”

In Section 3.8(A), change “if” to “is” and add – large scale “or intensive.”

In Section 3.10(D), omit “One or more of the following types of planned development districts can be considered: P-R, P-Rec, P-C, P-I.”

In Section 3.10(E)(2), change 10 days of receipt to 60 days of receipt.

In Section 3.10(E)(4), change 5 days to 10 days.

In Section 3.10(E)(8) correct “to the” (see spacing).

In Section 3.10(G)(4) change “are” to “shall be.”

In Section 6-3(E) change “five” to “ten” days for public hearing notice.

In Section 7.1.2(G) correct spelling of “residences”

Section 7.2(F)(2) change 7 days to 10 days.

Omit Section 7.7 (inconsistent with Section 7.8).

In Section 8-11, change “five” days to “ten” days.

In Section 9.1(A), omits “its and of” and add “and.”

Reformat and renumber accordingly following revisions.