

# Local Law Filing

(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  Village  
*(Select one.)*

of Taghkanic

Local Law No. 7 3 of the year 20~~12~~ 13

A local law Town of Taghkanic Natural Gas Mining Moratorium Law  
*(Insert Title)*

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

County  City  Town  Village  
*(Select one.)*

of Taghkanic as follows:

SEE ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**TOWN OF TAGHKANIC**  
**LOCAL LAW 3 OF 2013**

**A LOCAL LAW ENTITLED: "Town of Taghkanic Natural Gas Mining  
Moratorium Law"**

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

Section 1 TITLE

This law will be known as the "Town of Taghkanic Natural Gas Mining Moratorium Law". It may be cited as "Town of Taghkanic Local Law 7 of 2012" or "LL.7 of 2012".

Section 2 LEGISLATIVE INTENT

The Town Board of the Town of Taghkanic is authorized by the State of New York to regulate and control land use within the Town of Taghkanic and has the duty to protect the health, safety and welfare of Town residents. Article 23, Title 27 of the Environmental Conservation Law of New York State authorizes a local government to enact zoning regulations which determine permissible uses in zoning districts. This moratorium addresses zoning and planning regulations only, and does not regulate or attempt to regulate the actual operations of the oil, gas and solution mining industries or interfere in any manner with the extractive mining process for natural gas.

The Town of Taghkanic has legitimate goals and aims to protect the community, cultural, historical, recreational and environmental resources within the Town and the Town Board believes that studying this issue is necessary so that zoning regulation with respect to natural gas mining is formulated to protect the town from potential negative impacts. Changes in the mining industry have given the Town of Taghkanic sufficient reason to believe that additional study and examination of necessary land use regulations relating to natural gas mining is warranted. Therefore, the Town Board, through this local law, declares an eighteen-month moratorium on natural gas mining and related activities ancillary to natural gas mining in the Town of Taghkanic.

It is the intent of the Town Board that, during this eighteen-month moratorium, the Town of Taghkanic will examine whether additional local regulation is necessary and the extent of such regulation. If such local regulation is necessary, the Town Board may determine the appropriate rules and regulations to ensure comprehensive uniformity,

fairness and consistency in such regulations. Further, the Town Board will utilize the moratorium period to examine the significant environmental issues relating to natural gas mining within the Town of Taghkanic.

### Section 3 DEFINITIONS

**NATURAL GAS MINING:** For the purposes of this Local Law, the term "Natural Gas Mining" shall mean the extraction from the earth of natural gas. "Natural Gas Mining" shall not include the excavation, removal and disposition of minerals from soil, gravel mines or construction projects, or excavations in aid of agricultural activities.

**NATURAL GAS:** For the purposes of this Local Law, the term "Natural Gas" shall mean natural or petroleum gas in a non-liquid or gaseous state, whether under pressure or otherwise contained, and whether or not the product of conversion from liquefied natural gas or liquefied petroleum gas.

**PERSON:** For the purposes of this local law, the term "person" shall include an individual, society, club, firm, partnership, joint venture, corporation, LLC or other business venture or association of persons, and the singular shall include the plural number.

### Section 4 SCOPE AND CONTROL

A. Accept as provided for in Section 6 (VARIANCES) of this Local Law, for the period of eighteen months following the effective date of this local law:

1. Natural gas mining, and activities associated with or in furtherance of natural gas mining, including but not limited to the receipt, transfer, storage, processing or disposal of fluids or other substances utilized in natural gas mining, shall not be permitted uses in any zoning district within the Town of Taghkanic.

2. No new natural gas mining facilities, businesses or operations shall be permitted in the Town of Taghkanic. Additionally, for the period of eighteen months following the effective date of this local law, no new facilities, businesses or operations associated with or in furtherance of natural gas mining, including but not limited to the receipt, transfer, storage, processing or disposal of fluids or other substances utilized in natural gas mining, or expansions beyond existing such operations or facilities, shall be permitted in the Town of Taghkanic.

3. No person shall commence or carry on any new natural gas mining activity or operation, establish any new natural gas mining facility or operation, establish or commence any new facility, operation or activity associated with or in furtherance of

natural gas mining, including but not limited to any facility for the receipt, transfer, storage, processing or disposal of fluids or other materials utilized in natural gas mining, enlarge or expand any existing facility, operation or activity, or commence the development or construction of any such operation or facility, unless such person is in possession of a valid permit issued by the Town of Taghkanic therefore, pursuant to the granting of a variance as provided in Section 6 of this Local Law.

B. Accept as provided for in Section 6 (VARIANCES) of this Local Law, for the period of eighteen months following the effective date of this local law:

1. The Town Board, Planning Board or Zoning Board of Appeals shall not consider or approve any site plan, approve any special use permit or other permit, variance or other application which would allow for the establishment, implementation, placement, construction or development of any new or expanded natural gas mining facility or operation, or of a facility for any activity associated therewith or in furtherance of natural gas mining, including but not limited to any facility for the receipt, transfer, storage, processing or disposal of fluids or other materials utilized in natural gas mining, or the enlargement of any existing natural gas mining facility, operation or activity within the Town of Taghkanic.

2. The Zoning Enforcement Officer shall not consider or issue any land use permit, building permit or other permit which would result in the establishment, implementation, placement, construction or development of any new natural gas mining facility or operation, or of a facility for any activity associated therewith or in furtherance of natural gas mining, including but not limited to any facility for the receipt, transfer, storage, processing or disposal of fluids or other materials utilized in natural gas mining, or the enlargement of any existing natural gas mining facility, operation or activity within the Town of Taghkanic.

C. If, within eighteen months from the effective date of this Local Law, the Town Board adopts a local law relating to natural gas mining, the moratorium imposed by this local law shall expire immediately on the date the Town local law relating to natural gas mining takes effect in accordance with Section 27 of the Municipal Home Rule Law, unless the local law adopted relating to natural gas mining imposes or continues the moratorium imposed by this local law.

Section 5      EXCEPTIONS.

The lawful use of any premises on the effective date of this local law operated under a permit issued by the Town of Taghkanic or other appropriate state or federal agency may be continued, provided that such use, if prohibited under this Local Law, shall not be enlarged or extended beyond the existing location and operation.

Section 6      VARIANCES.

- A.      The Town Zoning Board of Appeals retains the power and sole discretion to vary or adapt the strict application of the requirements of this Local Law in the case of unnecessary hardship, difficulties with the area or use requirements of the zoning or circumstances that would unconstitutionally deprive the owner of all economically viable and productive use of the lands involved, provided the application is consistent with the intent of this Local Law.
- B.      An application for a variance shall be governed by and subject to the requirements and procedures generally applicable for a variance application in the Town of Taghkanic. In addition, any costs, including expert consulting fees, incurred by the Town of Taghkanic shall be paid by the applicant immediately upon request. The applicant may be required to place into escrow funds sufficient to ensure the payment of any such costs, as the Zoning Board of Appeals shall direct. Failure to provide such escrow funds or to promptly pay any costs incurred by the Town of Taghkanic in connection with the variance application may result in denial or suspension of the application.
- C.      An application for a variance plus seven (7) copies thereof shall be filed with the Town Clerk, together with a filing fee of \$250.00. The application shall specifically identify the land involved, recite the nature of the proposed use of the land, provide a narrative description of the project and identify the circumstances pursuant to which the variance is sought and the reasons why the variance is claimed.
- D.      All decisions on granting or denying such variances shall be made by the Town Zoning Board of Appeals solely, after determining whether or not the requested variance is compatible with the Comprehensive Plan of the Town and the Town zoning regulations. Unless the applicant can prove that the requirements for the proposed variance are satisfied, the Town Zoning Board shall, as appropriate, deny the application.
- E.      The Town Zoning Board of Appeals shall conduct a public hearing on any request for a variance within sixty-two (62) days of receipt of a completed application;

and shall issue its final decision on requests for a variance within sixty-two (62) days from the public hearing.

Section 7 ENFORCEMENT.

This local law shall be enforced by the Zoning Enforcement Officer of the Town of Taghkanic, or such other zoning enforcement or law enforcement individual(s) or agency as designated by the Town Board. It shall be the duty of the enforcement individual(s) to advise the Town Board of all matters pertaining to the enforcement of this local law and to keep all records necessary and appropriate to the office and to file the same in the office of the Town Clerk.

Section 8 VIOLATIONS.

A. In addition to the criminal penalties and other remedies set forth in Town Law section 268, any person violating any of the provisions of this local law shall be guilty of a violation and upon a conviction thereof, be given a civil penalty of no less than \$500.00 and no more than \$1,000.00 per day for this violation. Each day's violation shall constitute a separate and additional violation. An action may be commenced in a court of competent jurisdiction to recover such penalty. In addition thereto, violations of this local law shall be subject to being restrained by injunctive relief.

B. The provisions of this section are expressly intended to supersede the penalty provisions of Town Law Section 268, as authorized by Section 10 of the Municipal Home Rule Law. If a penalty provision of this section shall be adjudged by any court of competent jurisdiction to be invalid, then a person convicted of violating any provision of this Local Law shall be subject to the maximum penalties that may be imposed pursuant to Section 268 of the New York Town Law.

Section 9 SEQRA CLASSIFICATION.

As a land use moratorium, this local law shall be classified as a Type II action for the purposes of SEQRA. As such, SEQRA does not apply to the enactment of this moratorium.

Section 10 CONFLICT WITH OTHER LAWS.

This Local Law is enacted pursuant to the provisions of the Town Law and section 10 of the Municipal Home Rule Law of the State of New York. During the duration of times that this Law is in effect, it shall take precedence over and shall be considered

controlling over contrary laws, ordinances and provisions including, but not limited to, provisions in the Code of the Town of Taghkanic and the statutes set forth in the New York Town Law related to zoning and subdivisions. Specifically, this Law is intended to supersede Town Law Sections 130, 261, 262, 263, 264, 265, 267, 267-a, 267-b, 267-c, 268, 269, 274-a, 274-b, 276, 277, 278 and 279.

Section 11 SEVERABILITY.

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

Section 12 EFFECTIVE DATE.

This Local Law shall become effective immediately upon filing with the Secretary of State.

BE IT ENACTED this 10<sup>th</sup> day of November, 2012 by the Town Board of the Town of Taghkanic of Columbia County, New York.

Elizabeth L Young  
ELIZABETH L. YOUNG, Supervisor

Debora Gilbert  
DEBORA GILBERT, Board Member

Lawrence Kadish  
LAWRENCE KADISH, Board Member

Richard Skoda  
RICHARD SKODA, Board Member

Joyce Thompson  
JOYCE THOMPSON, Board Member

SEAL

Cheryl E Rogers  
ATTEST, CHERYL ROGERS, Town Clerk



(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. X 3 of 2012 of the (County)(City)(Town)(Village) of Town of Taghkanic was duly passed by the Town Board on November 10, 2012, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

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

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.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

**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\_\_\_\_.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

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.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

\* 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.

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

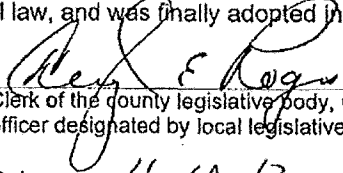
~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority 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 county legislative body, City, Town or Village Clerk or officer designated by local legislative body


Date: 11.10.12

(Seal)

(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 ALBANY

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.

  
Signature WILLIAM J. DECAIRE

Title Attorney to the Town

County \_\_\_\_\_  
City of Town of Taghkanic  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Date: 12/5/12