

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 of Livingston
Town
Village

Local Law No. 1 of the year 2013

A local law amending the zoning law of the Town of Livingston
in regard exploration for or extraction of natural gas and/or
petroleum

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

County
City of Livingston as follows:
Town
Village

Section 1. LEGISLATIVE INTENT.

The Town of Livingston presently has established comprehensive zoning regulations for the Town of Livingston. The Town Board of the Town of Livingston believes that updates are needed to the zoning law provisions in regard exploration for or extraction of natural gas and/or petroleum including but not limited to hydraulic fracturing a/k/a hydrofracking. The town recognizes New Yorkers' concerns include questions about the ability of the NYS Department of Environmental Conservation, with its current staffing levels and its proposed regulations, to protect our natural resources, our groundwater, our infrastructure, and prevent permanent damage to our environment. The town acknowledges recent serious accidents at Marcellus wells in Pennsylvania and West Virginia that utilized hydraulic fracturing; accidents in West Virginia's coal mines and at the drilling rig in the Gulf of Mexico highlight the dangers inherent in extractive mining, with particular concern about the possible role of methane (the main component in natural gas) in these events. Based on experience in other states where this drilling has been underway for years, the concerns include but are not limited to: air pollution (ground level ozone and smog) at and near drilling sites; threats to groundwater and surface water supplies from accidents on the surface, as well as subsurface failures of casings and the hydrofracking process itself; depletion and degradation of New York's lakes, rivers, streams, and wetlands; long-term consequences from infusion of

potentially toxic chemicals into the ground; dangers from drill cuttings and flowback water, which may be unsuitable and unsafe for disposal in New York's landfills and wastewater treatment plants; deleterious effects of noise and light from 24/7 drilling on the natural habitat of our region and our residents' health and quality of life; significant damage to roads and bridges, resulting in loss of mobility and economic activity even if drilling companies eventually rebuild the damaged infrastructure; fragmentation of our landscape, with loss of vital habitat for wildlife and significant increase in "edge" habitats which stimulate growth of invasive species; damage to existing economic sectors, including agriculture, hunting and fishing, tourism, and higher education; social disruption, including increase in crime rates and demand for emergency medical services, and greater disparity between high- and low-income households; economic costs to residents and local governments, including higher inflation, increased pressure on housing and consequent homelessness, and precipitous drop in property values. In addition to these concerns, methane ("natural" gas) is 72 times more potent than carbon dioxide in heating the planet according to the Intergovernmental Panel on Climate Change (2007). Therefore when all greenhouse gas emissions related to HVSWHF are calculated, including emissions from extraction, distribution, and use, natural gas is likely not "cleaner" than other fossil fuels and may be more damaging than coal.

Section 2. Be it enacted by the Town Board of the Town of Livingston that the definition section 1.3 of the Town Zoning Law be amended to add the following definitions in alphabetical order:

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, practices known as hydrofracking including but not limited to the digging or drilling of a well for the purposes of exploring for, developing, producing, distributing or selling natural gas or 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, including but not limited to the practices involved with hydrofracking.

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.

Be it further enacted by the Town Board of the Town of Livingston that Section 4.37 of the Zoning Law be added to read as follows:

4.37 EXPLORATION FOR OR EXTRACTION OF NATURAL GAS AND/OR PETROLEUM

1. 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.

2. 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, including but not limited to the storage of water or liquid to be used in exploration or extraction of natural gas and/or petroleum.

3. 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.

4. Prohibition against Natural Gas and/or Petroleum Support Activities.

No land in the Town shall be used for natural gas and/or petroleum support activities.

Section 3. VALIDITY & SEVERABILITY.

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this local law.

Section 4. EFFECTIVE DATE.

This local law shall be effective upon passage.

(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. 1 of 2013 of the Town of Livingston was duly passed by the Town Board on March 5, 2013, in
(Name of Legislative Body)

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 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
(Name of Legislative Body)~~

~~disapproval) by the _____ and was deemed duly adopted on _____, 20____,
(Elective Chief Executive Officer*)~~

~~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
(Name of Legislative Body)

disapproval) by the _____ on _____, 20____. Such local law was
(Elective Chief Executive Officer*)

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 (approved)(not approved)(repassed after
(Name of Legislative Body)~~

~~disapproval) by the _____ on _____, 20____. Such local law was subject
(Elective Chief Executive Officer*)~~

~~to permissive referendum and no valid petition requesting such referendum was filed as of _____, 20____, in accordance with the applicable provisions of law.~~

*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 chairman 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 _____, _____, 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.

Cynthia S. Hapeman
Cynthia Hapeman, Town Clerk

Date: March 5, 2013

(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 COLUMBIA

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 [Signature]

Title: Counsel

County
City of Livingston
Town
Village

Date: 3/12/13